



Consent of the Quarterly  
Administrative and Financial Councils

V O L U M E E I G H T E E N

# Quarterly Journal

No. 1

# Office of the Comptroller of the Currency

## March 1999

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:

- ž 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

The Comptroller John D. Hawke Jr. was sworn in as the 28th Comptroller of the Currency on December 8, 1998. Prior to his appointment Mr. Hawke served for 3½ years as Under

Secretary of the Treasury for Domestic Finance. He oversaw development of policy and legislation on financial institutions, debt management, and capital markets; served as chairman of the Advanced Counterfeit Deterrence Steering Committee; and was a member of the board of the Securities Investor Protection Corporation. Before joining Treasury, he was a senior partner at the Washington, D.C. law firm of Arnold & Porter, which he joined as an associate in 1962. In 1975 he left to serve as general counsel to the Board of Governors of the Federal Reserve System, returning in 1978. At Arnold & Porter he headed the financial institutions practice. From 1987 to 1995 he was chairman of the firm.

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

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

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

# Quarterly Journal



## Office of the Comptroller of the Currency

John D. Hawke Jr.

Comptroller of the Currency

The Administrator of National Banks



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# Contents

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	<i>Page</i>
Condition and Performance of Commercial Banks .....	1
Year 2000 Reports .....	19
Comptroller's Report of Operations- 1998 .....	39
Recent Corporate Decisions .....	97
Special Supervision/Fraud and Enforcement Activities .....	99
Appeals Process .....	103
Speeches and Congressional Testimony .....	109
Interpretations- October 1 to December 31, 1998 .....	135
Mergers- October 1 to December 31, 1998 .....	167
Tables on the Corporate Structure of the National Banking System .....	177
Tables on the Financial Performance of National Banks .....	211
Index .....	227

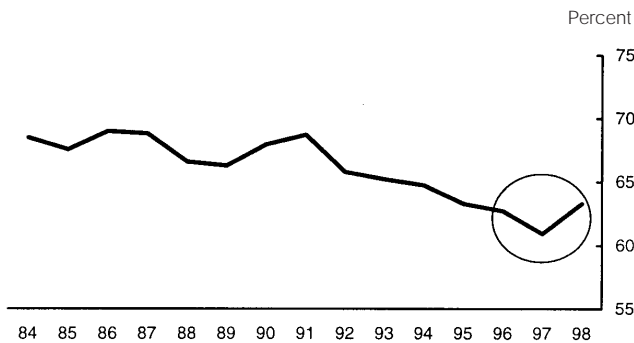
# Condition and Performance of Commercial Banks

## Highlights

Commercial bank net income declined for the second quarter in a row (to \$14.9 billion), although full-year 1998 net income (\$61.9 billion) was above the 1997 level (\$59.2 billion). After years of income growth and in an economy that is still growing, it is reasonable to ask why bank income declined over the last six months.

What changed after the middle of 1998 was that noninterest expenses rose sharply, growing by 23 percent over the course of the year. Noninterest expenses had been falling quite steadily as a percentage of revenue from 1992 until the middle of 1998. Overall, these expenses were up more than 23 percent over year earlier figures. Three factors played a role in this expense increase. First, tight labor markets began to force faster growth in employee compensation (up 12 per-

**Figure 1—Noninterest expense to net operating revenue (commercial banks)**

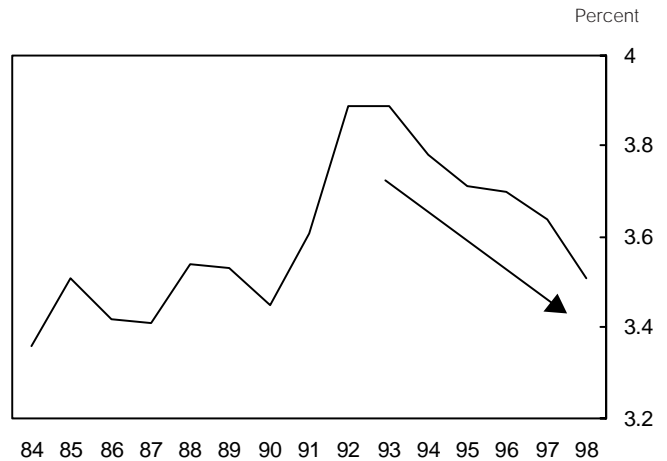


Source: Integrated Banking Information System

cent in 1998). Second, many banks are making one-time expenditures for year-2000 (Y2K) preparation. Third, some large banks have been recognizing the costs of past merger activity.

Commercial and industrial loan portfolios were up by over \$100 billion between January 1 and December 31, 1998. This surge was partly due to turmoil in global capital markets, which caused higher risk premiums on corporate

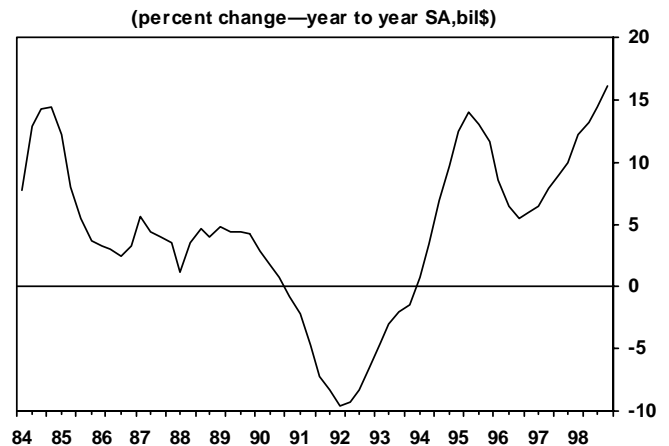
**Figure 2—Net interest income to assets (commercial banks)**



Source: Integrated Banking Information System

debt issues. These higher premiums made bank lending rates and bank stability more attractive by comparison and pushed many corporations into drawing on their bank lines of credit. Growth has moderated slightly, but remains high.

**Figure 3—Commercial and industrial loans in bank credit: domestically chartered commercial banks**



Source: Haver Analytics

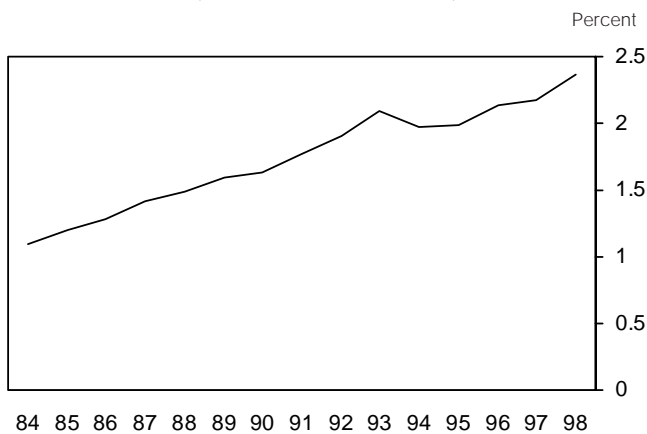
This combination of high loan volume and narrow lending margins reflects a highly competitive market in which room for error is slight.

## Other Trends

### Earnings

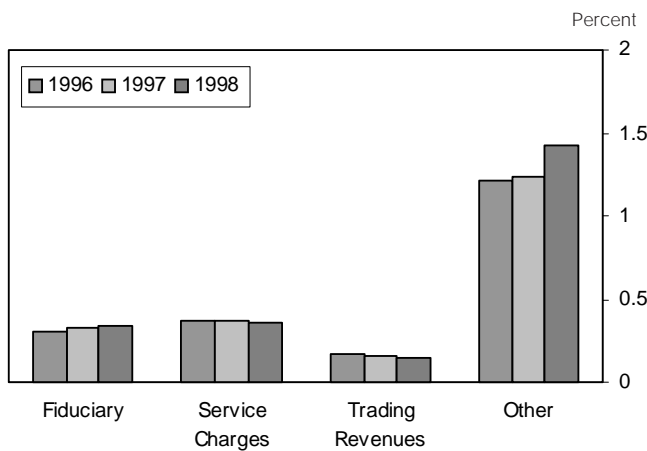
Noninterest income continued to grow as business, consumer, and trust department fee income continued their rapid growth. Noninterest income grew at over 26 percent (up \$10.5 billion) compared to the year earlier figure. This growth came from several sources. Fiduciary income, fees for managing money, contributed \$690 million more dollars and trading revenue was up \$760 million compared to the fourth quarter of 1997. But commercial banks' biggest new revenue generator continues to be growth in business and consumer fees, which were up by 32 percent or \$5.48 billion compared to the fourth quarter of 1997.

**Figure 4—Total noninterest income to assets (commercial banks)**



Source: Integrated Banking Information System

**Figure 5—Noninterest income to assets (commercial banks)**



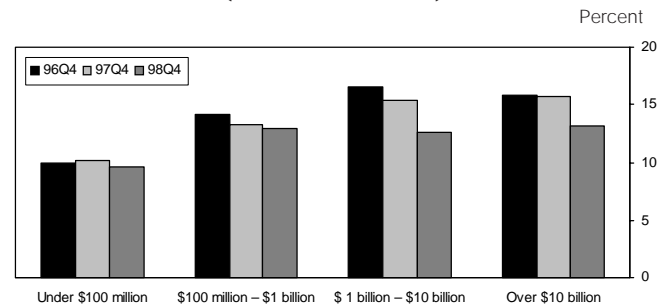
Source: Integrated Banking Information System

## Earnings and Profitability

Both for the quarter and for the year, return on equity and return on assets declined. Return on equity fell slightly to 13.95 percent from 14.68 percent in 1997 and return on assets fell an equally slight 4 basis points to 1.19 percent from 1.23 percent in 1997.

Among national banks, the annual average return on equity declined from 15 percent to 14.3 percent and the decline was sharpest among large banks. Smaller banks have historically maintained lower ROEs and experienced little decline in 1998.

**Figure 6—Quarterly return on equity by size (national banks)**



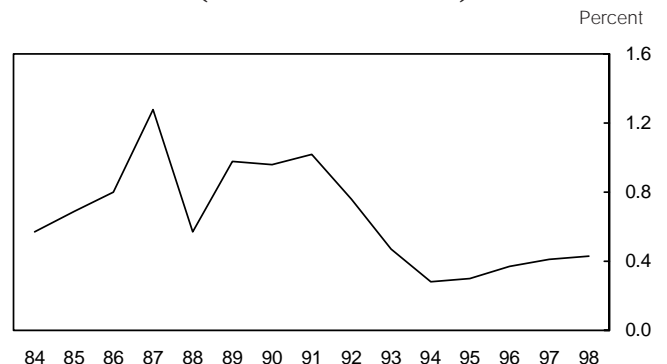
Source: Integrated Banking Information System

The fourth quarter earnings decline was widespread; the number of unprofitable banks rose from 10.35 percent to 11.8 percent and the number of banks reporting an earnings gain fell from 60 percent in the fourth quarter of 1997 to 55 percent in the fourth quarter of 1998.

### Condition

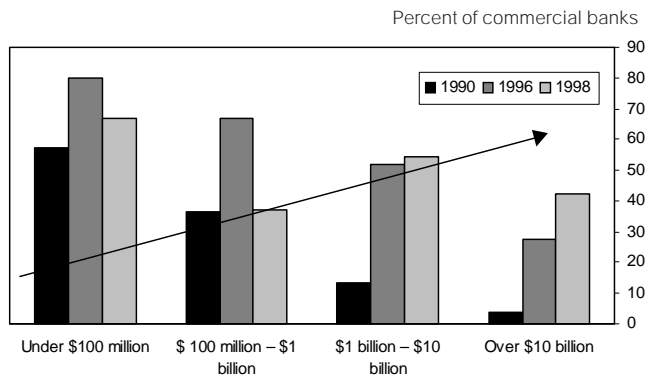
Bank condition remains healthy. The ratio of nonperforming assets to total assets remains low and loss provisions are a larger fraction of assets than in 1997.

**Figure 7—Loss provision to assets (commercial banks)**



Source: Integrated Banking Information System

**Figure 8—Banks with equity capital ratio over 8 percent**

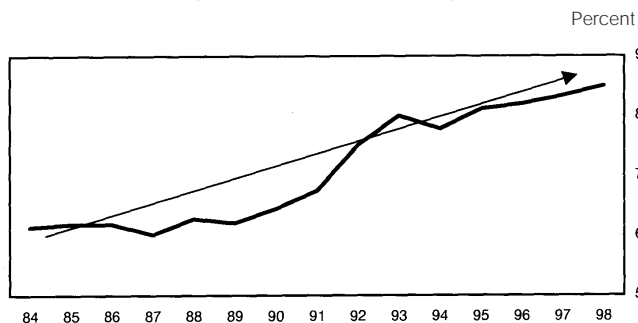


Source: Integrated Banking Information System

Equity capital-to-asset ratios have risen to an average for all commercial banks of 8.5 percent. This improvement came substantially among the largest banks, those with assets over \$10 billion, as this figure was already relatively high for small banks.

Despite rapid growth in loan portfolios, banks are less leveraged than in the past. Equity capital has grown faster than loan portfolios so loan-to-equity ratios are down.

**Figure 9—Equity capital to assets (commercial banks)**



Source: Integrated Banking Information System



**Key indicators, FDIC-insured national banks**  
**Annual 1994-1997, year-to-date through December 31, 1998, fourth quarter 1997, and fourth quarter 1998**  
(Dollar figures in millions)

	1994	1995	1996	1997	Preliminary 1998YTD	1997Q4	Preliminary 1998Q4
Number of institutions reporting .....	3,075	2,858	2,726	2,597	2,458	2,597	2,458
Total employees (FTEs) .....	851,311	840,699	850,737	912,463	972,349	912,463	972,349
<b>Selected income data (\$)</b>							
Net income .....	\$26,803	\$28,583	\$30,497	\$35,783	\$37,642	\$9,362	\$8,822
Net interest income .....	83,958	87,080	94,564	106,641	110,997	26,951	28,808
Provision for loan losses .....	5,500	6,335	9,598	13,065	15,273	3,614	3,802
Noninterest income .....	45,906	51,080	56,100	65,428	81,386	17,312	23,078
Noninterest expense .....	83,941	87,591	93,690	104,682	122,572	27,309	35,724
Net operating income .....	27,027	28,540	30,095	34,993	35,582	8,937	8,322
Cash dividends declared .....	17,669	20,516	25,279	28,573	25,388	11,260	7,284
Net charge-offs to loan and lease reserve .....	5,994	6,459	9,968	12,661	14,482	3,456	3,922
<b>Selected condition data (\$)</b>							
Total assets .....	2,256,008	2,401,017	2,528,057	2,893,910	3,183,032	2,893,910	3,183,032
Total loans and leases .....	1,382,855	1,522,677	1,641,464	1,840,484	2,015,763	1,840,484	2,015,763
Reserve for losses .....	30,990	31,142	31,992	34,865	36,850	34,865	36,850
Securities .....	414,264	390,549	380,615	452,118	515,975	452,118	515,975
Other real estate owned .....	5,709	3,396	2,761	2,112	1,833	2,112	1,833
Noncurrent loans and leases .....	17,852	17,595	17,223	17,878	19,518	17,878	19,518
Total deposits .....	1,630,171	1,695,817	1,801,043	2,004,867	2,137,855	2,004,867	2,137,855
Domestic deposits .....	1,350,658	1,406,312	1,525,565	1,685,316	1,785,765	1,685,316	1,785,765
Equity capital .....	172,655	189,714	207,166	244,964	274,182	244,964	274,182
Off-balance-sheet derivatives .....	7,570,283	7,914,818	7,488,663	8,704,481	10,947,337	8,704,481	10,947,337
<b>Performance ratios (annualized %)</b>							
Return on equity .....	15.99	15.76	15.28	15.00	14.30	15.23	12.95
Return on assets .....	1.24	1.24	1.25	1.29	1.24	1.31	1.13
Net interest income to assets .....	3.87	3.78	3.88	3.83	3.67	3.78	3.70
Loss provision to assets .....	0.25	0.27	0.39	0.47	0.50	0.51	0.49
Net operating income to assets .....	1.25	1.24	1.24	1.26	1.18	1.25	1.07
Noninterest income to assets .....	2.12	2.22	2.30	2.35	2.69	2.43	2.96
Noninterest expense to assets .....	3.87	3.80	3.85	3.76	4.05	3.83	4.59
Loss provision to loans and leases .....	0.42	0.44	0.61	0.73	0.79	0.79	0.76
Net charge-offs to loans and leases .....	0.46	0.45	0.63	0.71	0.75	0.76	0.79
Loss provision to net charge-offs .....	91.75	98.09	96.29	103.19	105.41	104.56	97.26
<b>Performance ratios (%)</b>							
Percent of institutions unprofitable .....	4.13	3.32	4.77	4.89	5.86	8.43	10.54
Percent of institutions with earnings gains .....	52.59	66.83	67.83	67.96	62.21	59.99	53.54
Nonint. income to net operating revenue .....	35.35	36.97	37.24	38.02	42.30	39.11	44.48
Nonint. expense to net operating revenue .....	64.64	63.40	62.18	60.84	63.71	61.70	68.85
<b>Condition ratios (%)</b>							
Nonperforming assets to assets .....	1.05	0.88	0.80	0.70	0.68	0.70	0.68
Noncurrent loans to loans .....	1.29	1.16	1.05	0.97	0.97	0.97	0.97
Loss reserve to noncurrent loans .....	173.59	176.99	185.75	195.02	188.80	195.02	188.80
Loss reserve to loans .....	2.24	2.05	1.95	1.89	1.83	1.89	1.83
Equity capital to assets .....	7.65	7.90	8.19	8.46	8.61	8.46	8.61
Leverage ratio .....	7.39	7.31	7.40	7.42	7.43	7.42	7.43
Risk-based capital ratio .....	12.47	12.09	11.97	11.87	11.80	11.87	11.80
Net loans and leases to assets .....	59.92	62.12	63.66	62.39	62.17	62.39	62.17
Securities to assets .....	18.36	16.27	15.06	15.62	16.21	15.62	16.21
Appreciation in securities (% of par) .....	-3.84	0.86	0.50	1.11	0.82	1.11	0.82
Residential mortgage assets to assets .....	20.43	20.13	19.81	20.10	20.41	20.10	20.41
Total deposits to assets .....	72.26	70.63	71.24	69.28	67.16	69.28	67.16
Core deposits to assets .....	55.16	53.28	54.08	51.59	49.73	51.59	49.73
Volatile liabilities to assets .....	29.90	30.29	29.83	31.42	31.77	31.42	31.77

**Loan performance, FDIC-insured national banks**  
**Annual 1994–1997, year-to-date through December 31, 1998, fourth quarter 1997, and fourth quarter 1998**  
(Dollar figures in millions)

	1994	1995	1996	1997	Preliminary 1998YTD	1997Q4	Preliminary 1998Q4
<b>Percent of loans past due 30-89 days</b>							
Total loans and leases .....	1.14	1.26	1.39	1.32	1.27	1.32	1.27
Loans secured by real estate (RE) .....	1.28	1.38	1.45	1.39	1.33	1.39	1.33
1–4 family residential mortgages .....	1.28	1.44	1.63	1.65	1.50	1.65	1.50
Home equity loans .....	0.87	1.19	1.04	0.93	0.97	0.93	0.97
Multifamily residential mortgages .....	1.45	1.15	1.28	1.33	0.94	1.33	0.94
Commercial RE loans .....	1.26	1.26	1.25	0.95	1.02	0.95	1.02
Construction RE loans .....	1.67	1.42	1.63	1.63	1.82	1.63	1.82
Commercial and industrial loans* .....	0.76	0.77	0.89	0.76	0.81	0.76	0.81
Loans to individuals .....	1.77	2.16	2.46	2.52	2.44	2.52	2.44
Credit cards .....	2.08	2.35	2.70	2.75	2.53	2.75	2.53
Installment loans .....	1.59	2.04	2.26	2.34	2.37	2.34	2.37
All other loans and leases .....	0.34	0.40	0.41	0.46	0.46	0.46	0.46
<b>Percent of loans noncurrent</b>							
Total loans and leases .....	1.29	1.16	1.05	0.97	0.97	0.97	0.97
Loans secured by real estate (RE) .....	1.83	1.46	1.27	1.07	0.98	1.07	0.98
1–4 family residential mortgages .....	0.96	0.90	1.10	1.01	0.95	1.01	0.95
Home equity loans .....	0.56	0.52	0.47	0.43	0.41	0.43	0.41
Multifamily residential mortgages .....	3.19	2.21	1.47	1.01	0.88	1.01	0.88
Commercial RE loans .....	2.81	2.18	1.71	1.27	1.01	1.27	1.01
Construction RE loans .....	4.93	3.17	1.31	1.00	0.80	1.00	0.80
Commercial and industrial loans* .....	1.04	1.06	0.87	0.78	0.86	0.78	0.86
Loans to individuals .....	1.01	1.18	1.34	1.49	1.58	1.49	1.58
Credit cards .....	1.09	1.34	1.70	2.03	2.06	2.03	2.06
Installment loans .....	0.97	1.06	1.04	1.04	1.18	1.04	1.18
All other loans and leases .....	0.47	0.32	0.25	0.27	0.31	0.27	0.31
<b>Percent of loans charged-off, net</b>							
Total loans and leases .....	0.46	0.45	0.63	0.71	0.75	0.76	0.79
Loans secured by real estate (RE) .....	0.29	0.13	0.09	0.06	0.05	0.07	0.08
1–4 family residential mortgages .....	0.14	0.10	0.08	0.08	0.07	0.08	0.08
Home equity loans .....	0.25	0.23	0.24	0.18	0.16	0.20	0.15
Multifamily residential mortgages .....	0.39	0.20	0.09	0.01	0.07	0.01	-0.04
Commercial RE loans .....	0.47	0.18	0.02	-0.01	-0.02	0.03	0.06
Construction RE loans .....	0.82	-0.01	0.16	-0.10	-0.01	-0.13	0.00
Commercial and industrial loans* .....	0.16	0.10	0.22	0.27	0.38	0.36	0.55
Loans to individuals .....	1.49	1.80	2.45	2.86	2.92	3.07	2.98
Credit cards .....	3.06	3.40	4.25	4.95	5.03	5.27	4.99
Installment loans .....	0.59	0.76	1.04	1.20	1.22	1.31	1.34
All other loans and leases .....	-0.08	-0.07	0.09	0.07	0.39	0.06	0.23
<b>Loans outstanding (\$)</b>							
Total loans and leases .....	\$1,382,855	\$1,522,677	\$1,641,464	\$1,840,484	\$2,015,763	\$1,840,484	\$2,015,763
Loans secured by real estate (RE) .....	562,005	610,405	646,570	725,286	764,811	725,286	764,811
1–4 family residential mortgages .....	282,000	317,521	329,031	363,327	381,470	363,327	381,470
Home equity loans .....	46,044	48,836	55,022	67,670	66,101	67,670	66,101
Multifamily residential mortgages .....	17,081	18,161	20,480	23,346	23,203	23,346	23,203
Commercial RE loans .....	151,514	157,638	170,350	190,060	200,452	190,060	200,452
Construction RE loans .....	33,571	34,736	38,848	47,399	56,260	47,399	56,260
Farmland loans .....	8,310	8,734	9,046	10,177	10,930	10,177	10,930
RE loans from foreign offices .....	23,484	24,779	23,794	23,306	26,396	23,306	26,396
Commercial and industrial loans .....	370,094	405,630	425,148	508,564	583,928	508,564	583,928
Loans to individuals .....	291,799	320,009	356,067	371,516	386,628	371,516	386,628
Credit cards .....	111,109	131,228	161,104	168,257	176,609	168,257	176,609
Installment loans .....	180,690	188,781	194,963	203,258	210,019	203,258	210,019
All other loans and leases .....	162,135	189,490	216,194	237,330	282,449	237,330	282,449
Less: Unearned income .....	3,178	2,857	2,515	2,212	2,053	2,212	2,053

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

**Key indicators, FDIC-insured national banks by asset size  
Fourth quarter 1997 and fourth quarter 1998**

(Dollar figures in millions)

	Less than \$100M		\$100M to \$1B		\$1B to \$10B		Greater than \$10B	
	1997Q4	1998Q4	1997Q4	1998Q4	1997Q4	1998Q4	1997Q4	1998Q4
Number of institutions reporting .....	1,377	1,269	1,030	998	147	148	43	43
Total employees (FTEs) .....	35,839	32,440	113,315	106,739	152,643	149,657	610,666	683,513
<b>Selected income data (\$)</b>								
Net income .....	\$185	\$167	\$838	\$790	\$1,711	\$1,465	\$6,629	\$6,400
Net interest income .....	744	645	2,814	2,596	5,295	5,095	18,098	20,473
Provision for loan losses .....	61	51	278	303	1,211	1,182	2,064	2,266
Noninterest income .....	462	537	1,311	1,300	3,186	4,498	12,353	16,744
Noninterest expense .....	880	900	2,617	2,475	4,628	6,202	19,184	26,147
Net operating income .....	183	164	831	775	1,684	1,437	6,239	5,946
Cash dividends declared .....	205	263	746	726	2,849	1,287	7,460	5,008
Net charge-offs to loan and lease reserve	44	38	226	209	1,234	1,096	1,952	2,578
<b>Selected condition data (\$)</b>								
Total assets .....	69,045	63,476	268,750	258,938	476,012	465,903	2,080,104	2,394,715
Total loans and leases .....	39,720	35,540	163,078	155,036	316,047	294,932	1,321,640	1,530,254
Reserve for losses .....	536	477	2,405	2,293	7,711	7,193	24,212	26,887
Securities .....	19,162	17,026	71,666	70,102	90,309	94,592	270,980	334,254
Other real estate owned .....	93	71	256	229	214	185	1,549	1,348
Noncurrent loans and leases .....	417	383	1,326	1,311	3,467	3,052	12,669	14,771
Total deposits .....	59,351	54,121	219,483	212,825	322,089	301,034	1,403,944	1,569,874
Domestic deposits .....	59,351	54,121	219,016	212,387	315,717	297,419	1,091,231	1,221,839
Equity capital .....	7,342	6,986	25,530	24,454	44,041	46,877	168,051	195,866
Off-balance-sheet derivatives .....	516	502	4,602	3,184	59,795	51,527	8,782,176	11,057,078
<b>Performance ratios (annualized %)</b>								
Return on equity .....	10.14	9.61	13.24	12.94	15.39	12.62	15.71	13.15
Return on assets .....	1.09	1.07	1.27	1.25	1.45	1.30	1.30	1.09
Net interest income to assets .....	4.37	4.15	4.26	4.09	4.50	4.51	3.54	3.49
Loss provision to assets .....	0.36	0.33	0.42	0.48	1.03	1.05	0.40	0.39
Net operating income to assets .....	1.07	1.06	1.26	1.22	1.43	1.27	1.22	1.01
Noninterest income to assets .....	2.71	3.45	1.99	2.05	2.71	3.98	2.41	2.86
Noninterest expense to assets .....	5.17	5.79	3.96	3.90	3.93	5.48	3.75	4.46
Loss provision to loans and leases .....	0.62	0.58	0.69	0.79	1.55	1.64	0.63	0.60
Net charge-offs to loans and leases .....	0.45	0.44	0.56	0.55	1.58	1.52	0.60	0.68
Loss provision to net charge-offs .....	139.28	133.47	122.86	144.79	98.14	107.87	105.73	88.31
<b>Performance ratios (%)</b>								
Percent of institutions unprofitable .....	11.98	15.37	4.56	4.61	4.08	10.81	2.33	4.65
Percent of institutions with earnings gains ..	54.97	49.01	66.31	58.32	60.54	56.76	67.44	65.12
Nonint. income to net operating revenue ..	38.32	45.42	31.78	33.37	37.56	46.89	40.57	44.99
Nonint. expense to net operating revenue ..	73.01	76.19	63.44	63.53	54.56	64.66	63.00	70.26
<b>Condition ratios (%)</b>								
Nonperforming assets to assets .....	0.74	0.72	0.59	0.59	0.77	0.70	0.69	0.68
Noncurrent loans to loans .....	1.05	1.08	0.81	0.85	1.10	1.03	0.96	0.97
Loss reserve to noncurrent loans .....	128.51	124.36	181.43	174.95	222.44	235.64	191.12	182.03
Loss reserve to loans .....	1.35	1.34	1.48	1.48	2.44	2.44	1.83	1.76
Equity capital to assets .....	10.63	11.01	9.50	9.44	9.25	10.06	8.08	8.18
Leverage ratio .....	10.43	10.73	9.17	9.02	8.32	8.72	6.88	6.92
Risk-based capital ratio .....	17.78	18.44	14.87	14.80	12.91	13.20	11.21	11.18
Net loans and leases to assets .....	56.75	55.24	59.79	58.99	64.77	61.76	62.37	62.78
Securities to assets .....	27.75	26.82	26.67	27.07	18.97	20.30	13.03	13.96
Appreciation in securities (% of par) .....	0.68	0.99	0.91	1.10	1.13	0.89	1.20	0.73
Residential mortgage assets to assets ..	22.19	21.90	25.82	25.63	23.02	24.64	18.62	18.99
Total deposits to assets .....	85.96	85.26	81.67	82.19	67.66	64.61	67.49	65.56
Core deposits to assets .....	75.11	73.99	70.95	70.91	58.64	56.38	46.70	45.50
Volatile liabilities to assets .....	12.52	12.63	16.85	16.14	25.51	26.17	35.28	35.05

**Loan performance, FDIC-insured national banks by asset size**  
**Fourth quarter 1997 and fourth quarter 1998**

(Dollar figures in millions)

	Less than \$100M		\$100M to \$1B		\$1B to \$10B		Greater than \$10B	
	1997Q4	1998Q4	1997Q4	1998Q4	1997Q4	1998Q4	1997Q4	1998Q4
<b>Percent of loans past due 30-89 days</b>								
Total loans and leases .....	1.62	1.53	1.31	1.35	1.69	1.66	1.23	1.18
Loans secured by real estate (RE) ....	1.46	1.37	1.09	1.12	1.26	1.26	1.48	1.38
1-4 family residential mortgages ...	1.87	1.72	1.37	1.45	1.41	1.26	1.76	1.56
Home equity loans .....	1.15	0.83	0.80	0.84	0.86	1.09	0.95	0.96
Multifamily residential mortgages ...	0.87	0.61	0.87	0.61	0.97	0.83	1.55	1.04
Commercial RE loans .....	1.03	1.03	0.75	0.77	0.92	1.00	1.01	1.08
Construction RE loans .....	1.22	1.34	1.16	1.08	2.12	2.37	1.61	1.83
Commercial and industrial loans* .....	2.55	2.41	1.50	1.56	1.20	1.21	0.61	0.70
Loans to individuals .....	2.42	2.32	2.19	2.24	2.64	2.50	2.51	2.45
Credit cards .....	3.21	2.49	2.75	3.21	2.81	2.48	2.70	2.53
Installment loans .....	2.36	2.31	2.03	1.99	2.39	2.53	2.37	2.39
All other loans and leases .....					0.93	0.84	0.43	0.44
<b>Percent of loans noncurrent</b>								
Total loans and leases .....	1.05	1.08	0.81	0.85	1.10	1.03	0.96	0.97
Loans secured by real estate (RE) ....	0.96	0.90	0.68	0.68	0.97	0.76	1.17	1.09
1-4 family residential mortgages ...	0.83	0.80	0.62	0.67	1.05	0.78	1.09	1.04
Home equity loans .....	0.38	0.52	0.30	0.34	0.45	0.54	0.44	0.39
Multifamily residential mortgages ...	0.98	0.60	0.68	0.36	0.66	0.79	1.20	1.01
Commercial RE loans .....	1.05	0.93	0.77	0.73	1.05	0.81	1.49	1.14
Construction RE loans .....	1.12	0.83	0.82	0.54	0.82	0.63	1.09	0.90
Commercial and industrial loans* .....	2.31	2.64	1.41	1.51	0.75	0.74	0.71	0.81
Loans to individuals .....	0.76	0.73	0.83	0.86	1.57	1.60	1.55	1.67
Credit cards .....	1.54	1.55	2.00	2.29	2.14	1.95	1.97	2.13
Installment loans .....	0.70	0.69	0.50	0.50	0.75	0.92	1.25	1.35
All other loans and leases .....					0.42	0.51	0.26	0.30
<b>Percent of loans charged-off, net</b>								
Total loans and leases .....	0.45	0.44	0.56	0.55	1.58	1.52	0.60	0.68
Loans secured by real estate (RE) ....	0.07	0.07	0.07	0.08	0.08	0.10	0.07	0.07
1-4 family residential mortgages ...	0.06	0.08	0.07	0.07	0.07	0.12	0.09	0.07
Home equity loans .....	-0.19	0.01	0.13	0.10	0.31	0.32	0.18	0.13
Multifamily residential mortgages ...	0.30	0.01	0.08	0.01	0.13	0.07	-0.05	-0.08
Commercial RE loans .....	0.10	0.08	0.06	0.10	0.04	0.05	0.01	0.05
Construction RE loans .....	-0.03	0.02	0.03	0.04	-0.01	0.03	-0.22	-0.02
Commercial and industrial loans* .....	1.14	1.34	0.85	0.99	0.22	0.51	0.34	0.52
Loans to individuals .....	1.39	1.12	2.09	1.96	4.41	3.94	2.62	2.73
Credit cards .....	3.15	3.65	6.18	6.41	6.67	5.54	4.32	4.58
Installment loans .....	1.26	0.95	1.01	0.85	1.15	1.08	1.42	1.48
All other loans and leases .....					0.34	0.41	0.03	0.22
<b>Loans outstanding (\$)</b>								
Total loans and leases .....	\$39,720	\$35,540	\$163,078	\$155,036	\$316,047	\$294,932	\$1,321,640	\$1,530,254
Loans secured by real estate (RE) ....	22,287	20,029	97,105	92,777	127,370	119,698	478,524	532,307
1-4 family residential mortgages ...	11,184	9,914	47,244	43,560	62,720	60,447	242,179	267,549
Home equity loans .....	519	425	4,994	3,945	10,843	9,178	51,313	52,553
Multifamily residential mortgages ...	545	455	3,107	2,938	4,752	4,063	14,943	15,747
Commercial RE loans .....	6,152	5,579	31,136	31,052	37,355	33,747	115,416	130,074
Construction RE loans .....	1,526	1,418	7,069	7,524	9,795	10,600	29,010	36,717
Farmland loans .....	2,361	2,238	3,538	3,734	1,759	1,484	2,519	3,474
RE loans from foreign offices .....	0	0	16	25	146	179	23,144	26,192
Commercial and industrial loans .....	6,681	6,107	28,395	28,150	63,207	54,010	410,281	495,662
Loans to individuals .....	6,047	5,205	28,448	24,520	106,410	103,085	230,611	253,817
Credit cards .....	426	282	6,211	5,000	62,988	67,443	98,632	103,884
Installment loans .....	5,621	4,923	22,236	19,521	43,421	35,642	131,979	149,933
All other loans and leases .....	4,874	4,336	9,537	9,955	19,243	18,243	203,676	249,915
Less: Unearned income .....	171	136	405	366	183	104	1,453	1,446

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

**Key indicators, FDIC-insured national banks by region**  
**Fourth quarter 1998**  
(Dollar figures in millions)

	Northeast	Southeast	Central	Midwest	Southwest	West	All institutions
Number of institutions reporting .....	276	321	507	487	613	254	2,458
Total employees (FTEs) .....	261,341	250,835	162,070	76,764	71,817	149,522	972,349
<b>Selected income data (\$)</b>							
Net income .....	\$2,329	\$3,044	\$1,176	\$992	\$494	\$787	\$8,822
Net interest income .....	8,143	6,811	4,353	2,517	1,954	5,031	28,808
Provision for loan losses .....	1,486	572	522	417	149	656	3,802
Noninterest income .....	8,054	4,967	3,774	1,996	788	3,500	23,078
Noninterest expense .....	11,249	7,484	5,934	2,603	1,925	6,531	35,724
Net operating income .....	2,268	2,704	1,136	983	460	771	8,322
Cash dividends declared .....	1,651	2,052	1,263	936	968	414	7,284
Net charge-offs to loan and lease reserve .....	1,652	663	462	392	143	610	3,922
<b>Selected condition data (\$)</b>							
Total assets .....	852,723	833,464	522,754	246,107	205,601	522,382	3,183,032
Total loans and leases .....	539,479	507,365	340,759	170,349	114,233	343,578	2,015,763
Reserve for losses .....	11,773	7,405	5,173	2,976	1,552	7,972	36,850
Securities .....	131,274	155,460	84,637	39,227	54,759	50,618	515,975
Other real estate owned .....	679	477	189	82	112	294	1,833
Noncurrent loans and leases .....	7,447	4,036	2,836	1,300	1,040	2,859	19,518
Total deposits .....	556,416	526,486	347,283	165,714	166,553	375,404	2,137,855
Domestic deposits .....	342,931	493,966	313,774	159,072	163,381	312,643	1,785,765
Equity capital .....	70,869	76,036	42,289	20,094	17,557	47,336	274,182
Off-balance-sheet derivatives .....	4,240,516	3,043,813	1,610,319	34,821	37,208	1,980,661	10,947,337
<b>Performance ratios (annualized %)</b>							
Return on equity .....	13.46	16.06	11.12	19.89	11.12	6.63	12.95
Return on assets .....	1.11	1.48	0.93	1.66	0.99	0.62	1.13
Net interest income to assets .....	3.88	3.31	3.45	4.22	3.90	3.95	3.70
Loss provision to assets .....	0.71	0.28	0.41	0.70	0.30	0.52	0.49
Net operating income to assets .....	1.08	1.32	0.90	1.65	0.92	0.61	1.07
Noninterest income to assets .....	3.83	2.42	2.99	3.35	1.57	2.75	2.96
Noninterest expense to assets .....	5.36	3.64	4.71	4.37	3.85	5.13	4.59
Loss provision to loans and leases .....	1.12	0.45	0.63	1.01	0.53	0.77	0.76
Net charge-offs to loans and leases .....	1.25	0.52	0.56	0.95	0.51	0.72	0.79
Loss provision to net charge-offs .....	90.63	86.23	112.95	106.61	104.13	107.55	97.26
<b>Performance ratios (%)</b>							
Percent of institutions unprofitable .....	7.25	14.64	7.10	8.62	12.56	14.57	10.54
Percent of institutions with earnings gains .....	63.04	55.76	52.07	54.41	49.43	51.57	53.54
Nonint. income to net operating revenue .....	49.73	42.17	46.44	44.23	28.74	41.02	44.48
Nonint. expense to net operating revenue .....	69.45	63.54	73.02	57.67	70.20	76.55	68.85
<b>Condition ratios (%)</b>							
Nonperforming assets to assets .....	0.97	0.54	0.58	0.56	0.56	0.61	0.68
Noncurrent loans to loans .....	1.38	0.80	0.83	0.76	0.91	0.83	0.97
Loss reserve to noncurrent loans .....	158.09	183.49	182.40	228.91	149.16	278.87	188.80
Loss reserve to loans .....	2.18	1.46	1.52	1.75	1.36	2.32	1.83
Equity capital to assets .....	8.31	9.12	8.09	8.16	8.54	9.06	8.61
Leverage ratio .....	7.44	7.39	7.43	7.71	7.65	7.23	7.43
Risk-based capital ratio .....	12.34	11.28	11.42	12.03	13.09	11.59	11.80
Net loans and leases to assets .....	61.88	59.99	64.20	68.01	54.81	64.25	62.17
Securities to assets .....	15.39	18.65	16.19	15.94	26.63	9.69	16.21
Appreciation in securities (% of par) .....	0.23	1.08	1.10	1.24	0.95	0.61	0.82
Residential mortgage assets to assets .....	15.73	27.00	20.52	23.10	23.82	14.83	20.41
Total deposits to assets .....	65.25	63.17	66.43	67.33	81.01	71.86	67.16
Core deposits to assets .....	34.28	52.80	53.19	59.45	69.88	54.06	49.73
Volatile liabilities to assets .....	44.84	29.11	29.48	22.08	18.07	26.90	31.77

**Loan performance, FDIC-insured national banks by region**  
**Fourth quarter 1998**  
(Dollar figures in millions)

	Northeast	Southeast	Central	Midwest	Southwest	West	All institutions
<b>Percent of loans past due 30–89 days</b>							
Total loans and leases .....	1.33	1.21	1.44	1.40	1.48	0.98	1.27
Loans secured by real estate (RE) .....	1.35	1.42	1.40	1.12	1.44	1.12	1.33
1–4 family residential mortgages .....	1.59	1.51	1.63	1.10	1.60	1.45	1.50
Home equity loans .....	1.07	0.91	1.21	0.57	0.75	0.84	0.97
Multifamily residential mortgages .....	0.55	0.89	1.08	0.95	0.73	1.45	0.94
Commercial RE loans .....	0.76	1.29	1.01	0.99	1.11	0.73	1.02
Construction RE loans .....	1.50	1.99	2.03	1.77	2.06	1.30	1.82
Commercial and industrial loans* .....	0.62	0.67	1.08	1.30	1.27	0.71	0.81
Loans to individuals .....	2.67	2.37	2.58	2.30	1.97	2.13	2.44
Credit cards .....	2.59	2.74	2.53	2.34	1.12	2.39	2.53
Installment loans .....	2.84	2.22	2.59	2.25	2.00	1.83	2.37
All other loans and leases .....	0.35	0.36	0.79	0.85	1.24	0.25	0.46
<b>Percent of loans noncurrent</b>							
Total loans and leases .....	1.38	0.80	0.83	0.76	0.91	0.83	0.97
Loans secured by real estate (RE) .....	1.43	0.97	0.87	0.56	1.00	0.80	0.98
1–4 family residential mortgages .....	1.09	1.02	1.00	0.53	0.79	0.89	0.95
Home equity loans .....	0.52	0.38	0.45	0.25	0.27	0.36	0.41
Multifamily residential mortgages .....	1.37	0.89	0.70	0.28	0.75	0.81	0.88
Commercial RE loans .....	1.40	1.04	0.88	0.57	1.30	0.87	1.01
Construction RE loans .....	1.39	0.85	0.71	0.67	0.69	0.64	0.80
Commercial and industrial loans* .....	0.99	0.68	0.82	0.96	1.24	0.75	0.86
Loans to individuals .....	2.34	0.89	1.09	1.12	0.49	1.88	1.58
Credit cards .....	1.98	1.57	1.91	1.47	0.53	3.19	2.06
Installment loans .....	3.04	0.62	0.89	0.68	0.48	0.36	1.18
All other loans and leases .....	0.34	0.29	0.40	0.41	0.43	0.20	0.31
<b>Percent of loans charged-off, net</b>							
Total loans and leases .....	1.25	0.52	0.56	0.95	0.51	0.72	0.79
Loans secured by real estate (RE) .....	0.13	0.05	0.09	0.07	0.05	0.06	0.08
1–4 family residential mortgages .....	0.09	0.06	0.09	0.10	0.09	0.07	0.08
Home equity loans .....	0.33	0.08	0.18	0.19	0.44	0.06	0.15
Multifamily residential mortgages .....	0.11	0.10	0.00	0.11	0.09	-0.61	-0.04
Commercial RE loans .....	-0.01	0.05	0.09	-0.01	-0.01	0.15	0.06
Construction RE loans .....	0.07	-0.01	0.01	-0.01	0.02	-0.04	0.00
Commercial and industrial loans* .....	0.75	0.44	0.43	0.36	0.63	0.53	0.55
Loans to individuals .....	3.81	2.37	2.04	3.30	1.35	3.15	2.98
Credit cards .....	4.81	5.38	6.35	5.05	2.18	4.81	4.99
Installment loans .....	1.92	1.25	1.00	1.10	1.31	1.30	1.34
All other loans and leases .....	0.02	0.40	0.27	0.56	0.30	0.17	0.23
<b>Loans outstanding (\$)</b>							
Total loans and leases .....	\$539,479	\$507,365	\$340,759	\$170,349	\$114,233	\$343,578	\$2,015,763
Loans secured by real estate (RE) .....	158,012	232,795	141,565	72,042	46,227	114,169	764,811
1–4 family residential mortgages .....	83,109	124,863	64,562	41,095	20,180	47,660	381,470
Home equity loans .....	11,626	19,985	15,633	3,668	776	14,412	66,101
Multifamily residential mortgages .....	5,101	6,080	4,992	1,929	1,293	3,808	23,203
Commercial RE loans .....	29,862	60,904	42,197	16,740	16,554	34,194	200,452
Construction RE loans .....	5,005	18,297	11,613	5,668	5,879	9,797	56,260
Farmland loans .....	451	2,255	2,551	2,942	1,544	1,188	10,930
RE loans from foreign offices .....	22,858	411	17	0	0	3,110	26,396
Commercial and industrial loans .....	168,131	147,427	95,461	38,918	33,677	100,314	583,928
Loans to individuals .....	139,586	69,182	59,640	39,416	23,001	55,803	386,628
Credit cards .....	92,650	19,478	11,555	21,999	907	30,019	176,609
Installment loans .....	46,936	49,704	48,085	17,417	22,094	25,783	210,019
All other loans and leases .....	74,823	58,223	44,329	20,012	11,540	73,522	282,449
Less: Unearned income .....	1,074	263	235	40	212	229	2,053

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

**Key indicators, FDIC-insured commercial banks**  
**Annual 1994–1997, year-to-date through December 31, 1998, fourth quarter 1997, and fourth quarter 1998**  
(Dollar figures in millions)

	1994	1995	1996	1997	Preliminary 1998YTD	1997Q4	Preliminary 1998Q4
Number of institutions reporting .....	10,451	9,940	9,527	9,142	8,774	9,142	8,774
Total employees (FTEs) .....	1,489,171	1,484,421	1,489,186	1,538,408	1,624,235	1,538,408	1,624,235
<b>Selected income data (\$)</b>							
Net income .....	\$44,622	\$48,745	\$52,351	\$59,161	\$61,921	\$15,276	\$14,897
Net interest income .....	146,551	154,210	162,754	174,506	182,783	44,625	47,030
Provision for loan losses .....	10,965	12,603	16,285	19,848	22,209	5,520	5,795
Noninterest income .....	76,276	82,426	93,569	104,498	123,745	27,216	34,678
Noninterest expense .....	144,234	149,729	160,698	169,983	194,047	44,407	54,863
Net operating income .....	45,029	48,396	51,510	57,933	59,318	14,704	14,127
Cash dividends declared .....	28,089	31,053	38,787	42,514	41,091	16,019	12,687
Net charge-offs to loan and lease reserve .....	11,248	12,202	15,500	18,315	20,695	5,080	5,765
<b>Selected condition data (\$)</b>							
Total assets .....	4,010,517	4,312,676	4,578,314	5,014,946	5,440,943	5,014,946	5,440,943
Total loans and leases .....	2,358,212	2,602,963	2,811,279	2,970,738	3,238,559	2,970,738	3,238,559
Reserve for losses .....	52,132	52,838	53,458	54,684	57,279	54,684	57,279
Securities .....	823,024	810,872	800,648	871,868	979,654	871,868	979,654
Other real estate owned .....	9,567	6,063	4,780	3,795	3,148	3,795	3,148
Noncurrent loans and leases .....	30,708	30,351	29,130	28,542	31,253	28,542	31,253
Total deposits .....	2,874,439	3,027,574	3,197,136	3,421,726	3,681,523	3,421,726	3,681,523
Domestic deposits .....	2,442,523	2,573,480	2,723,556	2,895,532	3,109,500	2,895,532	3,109,500
Equity capital .....	312,089	349,575	375,275	417,954	462,225	417,954	462,225
Off-balance-sheet derivatives .....	15,773,018	16,860,614	20,035,444	25,063,799	32,999,616	25,063,799	32,999,616
<b>Performance ratios (annualized %)</b>							
Return on equity .....	14.61	14.66	14.45	14.68	13.95	14.65	12.96
Return on assets .....	1.15	1.17	1.19	1.23	1.19	1.24	1.11
Net interest income to assets .....	3.78	3.71	3.70	3.64	3.51	3.61	3.51
Loss provision to assets .....	0.28	0.30	0.37	0.41	0.43	0.45	0.43
Net operating income to assets .....	1.16	1.16	1.17	1.21	1.14	1.19	1.06
Noninterest income to assets .....	1.97	1.98	2.13	2.18	2.37	2.20	2.59
Noninterest expense to assets .....	3.72	3.60	3.65	3.54	3.72	3.59	4.10
Loss provision to loans and leases .....	0.49	0.51	0.61	0.69	0.72	0.75	0.73
Net charge-offs to loans and leases .....	0.50	0.49	0.58	0.64	0.67	0.69	0.72
Loss provision to net charge-offs .....	97.48	103.28	105.07	108.37	105.01	108.67	98.89
<b>Performance ratios (%)</b>							
Percent of institutions unprofitable .....	3.98	3.55	4.27	4.85	5.82	10.35	11.80
Percent of institutions with earnings gains .....	53.99	67.53	70.77	68.40	61.76	60.10	54.83
Nonint. income to net operating revenue .....	34.23	34.83	36.50	37.45	40.37	37.88	42.44
Nonint. expense to net operating revenue .....	64.73	63.27	62.69	60.92	63.30	61.81	67.15
<b>Condition ratios (%)</b>							
Nonperforming assets to assets .....	1.01	0.85	0.75	0.66	0.65	0.66	0.65
Noncurrent loans to loans .....	1.30	1.17	1.04	0.96	0.97	0.96	0.97
Loss reserve to noncurrent loans .....	169.77	174.09	183.51	191.59	183.27	191.59	183.27
Loss reserve to loans .....	2.21	2.03	1.90	1.84	1.77	1.84	1.77
Equity capital to assets .....	7.78	8.11	8.20	8.33	8.50	8.33	8.50
Leverage ratio .....	7.64	7.61	7.64	7.56	7.54	7.56	7.54
Risk-based capital ratio .....	13.01	12.68	12.54	12.25	12.23	12.25	12.23
Net loans and leases to assets .....	57.50	59.13	60.24	58.15	58.47	58.15	58.47
Securities to assets .....	20.52	18.80	17.49	17.39	18.01	17.39	18.01
Appreciation in securities (% of par) .....	-3.42	1.01	0.51	1.10	1.07	1.10	1.07
Residential mortgage assets to assets .....	20.45	20.31	19.79	20.03	20.93	20.03	20.93
Total deposits to assets .....	71.67	70.20	69.83	68.23	67.66	68.23	67.66
Core deposits to assets .....	55.31	53.47	52.45	50.06	49.41	50.06	49.41
Volatile liabilities to assets .....	29.28	29.68	30.71	31.92	31.68	31.92	31.68

**Loan performance, FDIC-insured commercial banks**  
**Annual 1994–1997, year-to-date through December 31, 1998, fourth quarter 1997, and fourth quarter 1998**  
(Dollar figures in millions)

	1994	1995	1996	1997	Preliminary 1998YTD	1997Q4	Preliminary 1998Q4
<b>Percent of loans past due 30–89 days</b>							
Total loans and leases .....	1.19	1.29	1.37	1.31	1.26	1.31	1.26
Loans secured by real estate (RE) .....	1.31	1.38	1.41	1.33	1.26	1.33	1.26
1–4 family residential mortgages .....	1.33	1.53	1.57	1.59	1.44	1.59	1.44
Home equity loans .....	0.85	1.09	1.06	0.96	0.98	0.96	0.98
Multifamily residential mortgages .....	1.65	0.99	1.19	1.11	0.87	1.11	0.87
Commercial RE loans .....	1.27	1.21	1.24	0.97	0.99	0.97	0.99
Construction RE loans .....	1.64	1.41	1.58	1.42	1.50	1.42	1.50
Commercial and industrial loans* .....	0.89	0.86	0.95	0.83	0.88	0.83	0.88
Loans to individuals .....	1.82	2.21	2.50	2.50	2.43	2.50	2.43
Credit cards .....	2.08	2.40	2.76	2.73	2.58	2.73	2.58
Installment loans .....	1.66	2.08	2.31	2.33	2.33	2.33	2.33
All other loans and leases .....	0.30	0.37	0.37	0.51	0.51	0.51	0.51
<b>Percent of loans noncurrent</b>							
Total loans and leases .....	1.30	1.17	1.04	0.96	0.97	0.96	0.97
Loans secured by real estate (RE) .....	1.70	1.39	1.20	1.01	0.91	1.01	0.91
1–4 family residential mortgages .....	0.91	0.88	0.99	0.94	0.88	0.94	0.88
Home equity loans .....	0.54	0.52	0.48	0.44	0.43	0.44	0.43
Multifamily residential mortgages .....	2.73	1.99	1.35	0.95	0.85	0.95	0.85
Commercial RE loans .....	2.61	2.02	1.61	1.21	0.95	1.21	0.95
Construction RE loans .....	4.14	2.75	1.38	0.97	0.81	0.97	0.81
Commercial and industrial loans* .....	1.27	1.19	0.98	0.85	0.99	0.85	0.99
Loans to individuals .....	1.01	1.22	1.36	1.47	1.52	1.47	1.52
Credit cards .....	1.23	1.58	1.91	2.18	2.22	2.18	2.22
Installment loans .....	0.87	0.97	0.97	0.98	1.06	0.98	1.06
All other loans and leases .....	0.46	0.30	0.22	0.25	0.34	0.25	0.34
<b>Percent of loans charged-off, net</b>							
Total loans and leases .....	0.50	0.49	0.58	0.64	0.67	0.69	0.72
Loans secured by real estate (RE) .....	0.32	0.18	0.10	0.06	0.05	0.08	0.08
1–4 family residential mortgages .....	0.14	0.11	0.08	0.08	0.07	0.09	0.08
Home equity loans .....	0.21	0.20	0.20	0.16	0.14	0.17	0.13
Multifamily residential mortgages .....	0.51	0.32	0.15	0.04	0.05	0.02	-0.02
Commercial RE loans .....	0.53	0.32	0.09	0.01	0.00	0.05	0.06
Construction RE loans .....	0.87	0.22	0.19	-0.02	0.01	-0.02	0.04
Commercial and industrial loans* .....	0.27	0.25	0.26	0.28	0.42	0.38	0.62
Loans to individuals .....	1.43	1.73	2.28	2.70	2.69	2.86	2.77
Credit cards .....	3.00	3.40	4.35	5.11	5.19	5.34	5.26
Installment loans .....	0.50	0.66	0.89	1.04	1.04	1.17	1.15
All other loans and leases .....	0.11	-0.02	0.06	0.08	0.39	0.09	0.21
<b>Loans outstanding (\$)</b>							
Total loans and leases .....	\$2,358,212	\$2,602,963	\$2,811,279	\$2,970,738	\$3,238,559	\$2,970,738	\$3,238,559
Loans secured by real estate (RE) .....	997,704	1,080,116	1,139,018	1,244,014	1,345,418	1,244,014	1,345,418
1–4 family residential mortgages .....	493,137	546,808	570,122	620,594	668,610	620,594	668,610
Home equity loans .....	75,818	79,182	85,300	98,164	96,671	98,164	96,671
Multifamily residential mortgages .....	31,928	35,788	38,162	41,231	42,697	41,231	42,697
Commercial RE loans .....	283,208	298,533	315,989	340,549	370,996	340,549	370,996
Construction RE loans .....	64,506	68,696	76,399	88,248	106,715	88,248	106,715
Farmland loans .....	22,649	23,907	24,964	27,070	29,095	27,070	29,095
RE loans from foreign offices .....	26,457	27,202	28,083	28,157	30,635	28,157	30,635
Commercial and industrial loans .....	589,090	661,417	709,600	795,922	898,768	795,922	898,768
Loans to individuals .....	487,104	535,348	562,291	561,369	571,119	561,369	571,119
Credit cards .....	186,755	216,016	231,664	231,118	228,986	231,118	228,986
Installment loans .....	300,348	319,332	330,626	330,251	342,133	330,251	342,133
All other loans and leases .....	290,659	331,934	405,678	373,902	427,298	373,902	427,298
Less: Unearned income .....	6,344	5,853	5,308	4,469	4,043	4,469	4,043

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



**Key indicators, FDIC-insured commercial banks by asset size  
Fourth quarter 1997 and fourth quarter 1998**

(Dollar figures in millions)

	Less than \$100M		\$100M to \$1B		\$1B to \$10B		Greater than \$10B	
	1997Q4	1998Q4	1997Q4	1998Q4	1997Q4	1998Q4	1997Q4	1998Q4
Number of institutions reporting .....	5,853	5,408	2,922	2,974	301	321	66	71
Total employees (FTEs) .....	127,933	116,224	312,158	298,785	293,927	296,382	804,390	912,844
<b>Selected income data (\$)</b>								
Net income .....	\$652	\$532	\$2,256	\$2,159	\$3,467	\$3,045	\$8,901	\$9,161
Net interest income .....	2,860	2,542	7,720	7,447	9,554	9,535	24,491	27,506
Provision for loan losses .....	217	206	656	782	1,748	1,690	2,898	3,117
Noninterest income .....	938	1,002	2,844	2,907	5,879	7,042	17,555	23,728
Noninterest expense .....	2,662	2,617	6,630	6,524	8,468	10,389	26,647	35,334
Net operating income .....	642	521	2,229	2,112	3,419	2,974	8,414	8,519
Cash dividends declared .....	721	664	1,745	1,837	4,948	2,961	8,605	7,225
Net charge-offs to loan and lease reserve ..	168	158	521	579	1,779	1,599	2,612	3,429
<b>Selected condition data (\$)</b>								
Total assets .....	267,847	252,352	727,749	726,982	902,673	921,395	3,116,677	3,540,215
Total loans and leases .....	157,555	145,334	445,649	440,463	595,082	587,597	1,772,452	2,065,165
Reserve for losses .....	2,295	2,102	6,659	6,621	12,491	11,982	33,240	36,574
Securities .....	73,842	67,108	192,130	195,176	185,570	200,515	420,326	516,854
Other real estate owned .....	351	287	865	732	607	497	1,971	1,632
Noncurrent loans and leases .....	1,552	1,508	3,882	3,751	6,319	6,013	16,789	19,982
Total deposits .....	230,474	215,900	601,979	600,941	624,707	632,657	1,964,566	2,232,024
Domestic deposits .....	230,436	215,865	599,428	599,161	605,305	618,990	1,460,362	1,675,485
Equity capital .....	28,956	27,642	69,989	69,234	82,692	87,187	236,317	278,163
Off-balance-sheet derivatives .....	728	752	9,133	9,007	118,540	109,914	25,252,044	33,255,050
<b>Performance ratios (annualized %)</b>								
Return on equity .....	9.04	7.73	13.05	12.54	16.78	14.09	15.05	13.23
Return on assets .....	0.99	0.86	1.26	1.21	1.55	1.36	1.16	1.05
Net interest income to assets .....	4.34	4.12	4.32	4.18	4.29	4.25	3.18	3.15
Loss provision to assets .....	0.33	0.33	0.37	0.44	0.78	0.75	0.38	0.36
Net operating income to assets .....	0.97	0.84	1.25	1.19	1.53	1.32	1.09	0.97
Noninterest income to assets .....	1.42	1.62	1.59	1.63	2.64	3.14	2.28	2.71
Noninterest expense to assets .....	4.04	4.24	3.71	3.67	3.80	4.63	3.47	4.04
Loss provision to loans and leases .....	0.56	0.57	0.60	0.72	1.19	1.18	0.66	0.61
Net charge-offs to loans and leases .....	0.43	0.44	0.47	0.53	1.21	1.11	0.60	0.67
Loss provision to net charge-offs .....	129.20	130.47	125.91	135.14	98.30	106.33	110.96	88.20
<b>Performance ratios (%)</b>								
Percent of institutions unprofitable .....	13.96	16.09	3.97	4.61	3.99	7.48	1.52	5.63
Percent of institutions with earnings gains ..	55.97	50.68	67.49	61.43	66.45	60.12	69.70	70.42
Nonint. income to net operating revenue ..	24.69	28.27	26.92	28.07	38.09	42.48	41.75	46.31
Nonint. expense to net operating revenue ..	70.10	73.84	62.76	63.01	54.87	62.67	63.38	68.97
<b>Condition ratios (%)</b>								
Nonperforming assets to assets .....	0.71	0.71	0.65	0.62	0.77	0.71	0.63	0.64
Noncurrent loans to loans .....	0.99	1.04	0.87	0.85	1.06	1.02	0.95	0.97
Loss reserve to noncurrent loans .....	147.86	139.42	171.52	176.51	197.67	199.28	197.99	183.03
Loss reserve to loans .....	1.46	1.45	1.49	1.50	2.10	2.04	1.88	1.77
Equity capital to assets .....	10.81	10.95	9.62	9.52	9.16	9.46	7.58	7.86
Leverage ratio .....	10.67	10.80	9.24	9.18	8.39	8.42	6.65	6.75
Risk-based capital ratio .....	17.94	18.05	14.94	14.85	12.94	12.97	11.18	11.32
Net loans and leases to assets .....	57.97	56.76	60.32	59.68	64.54	62.47	55.80	57.30
Securities to assets .....	27.57	26.59	26.40	26.85	20.56	21.76	13.49	14.60
Appreciation in securities (% of par) .....	0.70	1.02	0.98	1.16	0.96	0.90	1.29	1.11
Residential mortgage assets to assets ..	21.73	21.10	24.50	24.47	24.45	25.78	17.57	18.93
Total deposits to assets .....	86.05	85.56	82.72	82.66	69.21	68.66	63.03	63.05
Core deposits to assets .....	75.24	74.45	71.64	71.23	57.73	58.09	40.63	40.88
Volatile liabilities to assets .....	12.33	12.34	16.21	15.69	26.33	24.83	38.90	38.13

**Loan performance, FDIC-insured commercial banks by asset size**  
**Fourth quarter 1997 and fourth quarter 1998**

(Dollar figures in millions)

	Less than \$100M		\$100M to \$1B		\$1B to \$10B		Greater than \$10B	
	1997Q4	1998Q4	1997Q4	1998Q4	1997Q4	1998Q4	1997Q4	1998Q4
<b>Percent of loans past due 30–89 days</b>								
Total loans and leases .....	1.71	1.68	1.37	1.34	1.55	1.52	1.19	1.14
Loans secured by real estate (RE) ....	1.53	1.47	1.16	1.10	1.20	1.19	1.43	1.32
1–4 family residential mortgages ...	1.98	1.92	1.51	1.45	1.39	1.27	1.64	1.45
Home equity loans .....	0.89	0.91	0.83	0.94	0.93	1.00	1.00	0.99
Multifamily residential mortgages ...	0.72	0.50	0.79	0.58	0.95	0.82	1.39	1.04
Commercial RE loans .....	1.09	1.07	0.80	0.75	0.93	1.07	1.08	1.07
Construction RE loans .....	1.25	1.21	1.13	1.03	1.45	1.47	1.62	1.80
Commercial and industrial loans* .....	1.56	1.62	1.32	1.35	1.05	1.14	0.58	0.67
Loans to individuals .....	2.67	2.54	2.25	2.36	2.57	2.48	2.50	2.42
Credit cards .....	3.05	2.56	2.78	3.73	2.76	2.52	2.71	2.54
Installment loans .....	2.64	2.54	2.14	2.09	2.37	2.43	2.34	2.33
All other loans and leases .....					1.16	0.97	0.46	0.48
<b>Percent of loans noncurrent</b>								
Total loans and leases .....	0.99	1.04	0.87	0.85	1.06	1.02	0.95	0.97
Loans secured by real estate (RE) ....	0.87	0.87	0.77	0.71	0.97	0.84	1.15	1.02
1–4 family residential mortgages ...	0.80	0.80	0.72	0.69	0.97	0.85	1.03	0.95
Home equity loans .....	0.49	0.53	0.42	0.41	0.44	0.51	0.44	0.40
Multifamily residential mortgages ...	0.96	0.84	0.81	0.64	0.83	0.91	1.08	0.90
Commercial RE loans .....	0.94	0.86	0.88	0.75	1.13	0.92	1.51	1.08
Construction RE loans .....	0.86	0.82	0.76	0.65	0.90	0.68	1.18	0.95
Commercial and industrial loans* .....	1.26	1.40	1.18	1.24	0.84	0.90	0.71	0.89
Loans to individuals .....	0.86	0.92	0.78	0.81	1.53	1.54	1.65	1.69
Credit cards .....	1.69	1.81	1.79	1.93	2.09	1.99	2.26	2.39
Installment loans .....	0.81	0.88	0.59	0.59	0.93	1.07	1.17	1.20
All other loans and leases .....					0.42	0.50	0.24	0.33
<b>Percent of loans charged-off, net</b>								
Total loans and leases .....	0.43	0.44	0.47	0.53	1.21	1.11	0.60	0.67
Loans secured by real estate (RE) ....	0.09	0.08	0.09	0.10	0.09	0.08	0.07	0.07
1–4 family residential mortgages ...	0.07	0.09	0.09	0.10	0.08	0.08	0.09	0.07
Home equity loans .....	0.11	0.06	0.09	0.11	0.24	0.22	0.17	0.11
Multifamily residential mortgages ...	0.29	0.08	0.07	0.00	0.10	0.06	-0.07	-0.07
Commercial RE loans .....	0.12	0.09	0.07	0.11	0.10	0.09	0.00	0.02
Construction RE loans .....	0.07	0.05	0.09	0.09	0.01	0.02	-0.12	0.03
Commercial and industrial loans* .....	0.70	0.79	0.67	0.77	0.28	0.64	0.30	0.55
Loans to individuals .....	1.18	1.07	1.72	2.01	3.84	3.38	2.71	2.74
Credit cards .....	3.64	2.87	5.41	7.34	6.44	5.73	4.62	4.83
Installment loans .....	1.05	0.97	1.04	0.95	1.03	0.94	1.29	1.31
All other loans and leases .....					0.34	0.45	0.06	0.20
<b>Loans outstanding (\$)</b>								
Total loans and leases .....	\$157,555	\$145,334	\$445,649	\$440,463	\$595,082	\$587,597	\$1,772,452	\$2,065,165
Loans secured by real estate (RE) ....	88,408	81,435	274,933	273,553	263,594	272,975	617,080	717,456
1–4 family residential mortgages ...	44,141	39,415	124,432	120,804	128,270	132,123	323,751	376,268
Home equity loans .....	2,086	1,755	13,568	11,879	20,441	18,535	62,070	64,502
Multifamily residential mortgages ...	1,955	1,687	8,871	8,685	11,081	10,170	19,324	22,154
Commercial RE loans .....	23,410	22,101	93,886	95,154	78,192	82,906	145,061	170,834
Construction RE loans .....	6,215	6,045	23,951	25,976	22,002	25,585	36,080	49,109
Farmland loans .....	10,594	10,424	10,155	11,005	3,335	3,299	2,987	4,367
RE loans from foreign offices .....	8	8	71	48	271	358	27,807	30,222
Commercial and industrial loans .....	25,779	24,491	79,143	80,854	125,096	119,485	565,904	673,937
Loans to individuals .....	23,637	21,107	68,724	62,203	166,150	158,581	302,858	329,228
Credit cards .....	1,226	1,052	11,116	10,173	85,222	81,992	133,554	135,769
Installment loans .....	22,411	20,055	57,608	52,030	80,928	76,590	169,304	193,459
All other loans and leases .....	20,349	18,802	24,046	24,930	41,111	37,146	288,396	346,420
Less: Unearned income .....	617	500	1,197	1,077	869	591	1,785	1,876

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

**Key indicators, FDIC-insured commercial banks by region**  
**Fourth quarter 1998**  
(Dollar figures in millions)

	Northeast	Southeast	Central	Midwest	Southwest	West
Number of institutions reporting .....	693	1,444	1,904	2,265	1,518	950
Total employees (FTEs) .....	475,329	399,337	283,509	127,797	116,001	222,262
<b>Selected income data (\$)</b>						
Net income .....	\$4,925	\$4,089	\$2,352	\$1,340	\$746	\$1,444
Net interest income .....	14,438	10,514	7,625	3,821	2,955	7,678
Provision for loan losses .....	2,125	929	848	555	235	1,103
Noninterest income .....	14,773	6,683	5,441	2,323	1,047	4,412
Noninterest expense .....	19,964	11,005	8,871	3,610	2,765	8,649
Net operating income .....	4,662	3,728	2,283	1,326	707	1,422
Cash dividends declared .....	3,471	3,090	2,672	1,214	1,203	1,037
Net charge-offs to loan and lease reserve .....	2,339	961	803	498	223	942
<b>Selected condition data (\$)</b>						
Total assets .....	1,920,977	1,211,358	889,283	376,523	304,569	738,233
Total loans and leases .....	1,004,032	754,758	577,930	251,459	166,838	483,542
Reserve for losses .....	20,529	10,926	8,546	4,257	2,287	10,733
Securities .....	318,549	239,896	164,973	73,053	86,411	96,770
Other real estate owned .....	1,012	800	368	198	238	531
Noncurrent loans and leases .....	12,897	5,810	4,635	1,962	1,554	4,395
Total deposits .....	1,180,788	810,470	621,692	275,278	250,348	542,948
Domestic deposits .....	770,612	772,362	576,577	268,636	247,175	474,138
Equity capital .....	150,073	110,246	73,564	32,842	26,893	68,607
Off-balance-sheet derivatives .....	26,163,798	3,096,415	1,670,527	35,706	37,902	1,995,268
<b>Performance ratios (annualized %)</b>						
Return on equity .....	13.27	14.90	12.75	16.44	11.01	8.48
Return on assets .....	1.03	1.37	1.09	1.47	1.01	0.81
Net interest income to assets .....	3.01	3.53	3.53	4.18	3.98	4.29
Loss provision to assets .....	0.44	0.31	0.39	0.61	0.32	0.62
Net operating income to assets .....	0.97	1.25	1.06	1.45	0.95	0.79
Noninterest income to assets .....	3.08	2.25	2.52	2.54	1.41	2.46
Noninterest expense to assets .....	4.16	3.70	4.10	3.95	3.72	4.83
Loss provision to loans and leases .....	0.86	0.49	0.60	0.90	0.57	0.93
Net charge-offs to loans and leases .....	0.95	0.51	0.57	0.81	0.54	0.80
Loss provision to net charge-offs .....	86.97	96.71	106.90	111.43	105.34	117.16
<b>Performance ratios (%)</b>						
Percent of institutions unprofitable .....	10.68	14.13	7.51	12.19	13.70	13.68
Percent of institutions with earnings gains .....	61.76	56.93	58.35	51.57	50.26	54.63
Nonint. income to net operating revenue .....	50.57	38.86	41.64	37.81	26.17	36.49
Nonint. expense to net operating revenue .....	68.35	64.00	67.89	58.75	69.09	71.54
<b>Condition ratios (%)</b>						
Nonperforming assets to assets .....	0.78	0.55	0.56	0.57	0.59	0.67
Noncurrent loans to loans .....	1.28	0.77	0.80	0.78	0.93	0.91
Loss reserve to noncurrent loans .....	159.18	188.05	184.39	216.98	147.16	244.20
Loss reserve to loans .....	2.04	1.45	1.48	1.69	1.37	2.22
Equity capital to assets .....	7.81	9.10	8.27	8.72	8.83	9.29
Leverage ratio .....	7.01	7.74	7.70	8.37	8.10	7.82
Risk-based capital ratio .....	12.42	11.83	11.81	12.96	13.90	12.03
Net loans and leases to assets .....	51.20	61.40	64.03	65.65	54.03	64.05
Securities to assets .....	16.58	19.80	18.55	19.40	28.37	13.11
Appreciation in securities (% of par) .....	0.60	1.76	1.13	1.20	0.94	0.82
Residential mortgage assets to assets .....	17.55	27.49	22.28	21.91	23.78	15.67
Total deposits to assets .....	61.47	66.91	69.91	73.11	82.20	73.55
Core deposits to assets .....	32.42	56.39	56.96	65.04	70.20	56.49
Volatile liabilities to assets .....	44.22	26.24	26.96	18.45	17.89	26.11

**Loan performance, FDIC-insured commercial banks by region**  
**Fourth quarter 1998**  
(Dollar figures in millions)

	Northeast	Southeast	Central	Midwest	Southwest	West	All institutions
<b>Percent of loans past due 30–89 days</b>							
Total loans and leases .....	1.20	1.28	1.42	1.40	1.56	1.01	1.26
Loans secured by real estate (RE) .....	1.25	1.34	1.32	1.15	1.49	1.00	1.26
1–4 family residential mortgages .....	1.42	1.49	1.45	1.25	1.80	1.33	1.44
Home equity loans .....	0.97	0.99	1.18	0.66	0.81	0.82	0.98
Multifamily residential mortgages .....	0.69	0.95	1.03	0.87	0.64	0.93	0.87
Commercial RE loans .....	0.94	1.13	1.08	0.90	1.11	0.70	0.99
Construction RE loans .....	1.19	1.53	1.88	1.46	1.80	1.08	1.50
Commercial and industrial loans* .....	0.57	0.83	1.15	1.55	1.51	0.86	0.88
Loans to individuals .....	2.67	2.36	2.53	2.32	2.08	2.02	2.43
Credit cards .....	2.72	2.68	2.77	2.53	1.44	2.17	2.58
Installment loans .....	2.60	2.24	2.48	2.14	2.11	1.84	2.33
All other loans and leases .....	0.37	0.44	1.01	0.63	0.96	0.28	0.51
<b>Percent of loans noncurrent</b>							
Total loans and leases .....	1.28	0.77	0.80	0.78	0.93	0.91	0.97
Loans secured by real estate (RE) .....	1.22	0.85	0.78	0.59	0.94	0.86	0.91
1–4 family residential mortgages .....	0.99	0.89	0.82	0.56	0.83	0.94	0.88
Home equity loans .....	0.53	0.37	0.46	0.28	0.32	0.39	0.43
Multifamily residential mortgages .....	1.03	0.99	0.71	0.37	0.73	0.78	0.85
Commercial RE loans .....	1.31	0.90	0.81	0.56	1.09	0.91	0.95
Construction RE loans .....	1.40	0.72	0.76	0.66	0.69	0.79	0.81
Commercial and industrial loans* .....	1.14	0.73	0.86	1.21	1.36	0.93	0.99
Loans to individuals .....	2.24	0.87	1.10	1.09	0.57	1.67	1.52
Credit cards .....	2.35	1.57	2.39	1.57	0.74	2.66	2.22
Installment loans .....	2.11	0.62	0.81	0.66	0.56	0.43	1.06
All other loans and leases .....	0.42	0.28	0.36	0.29	0.39	0.22	0.34
<b>Percent of loans charged-off, net</b>							
Total loans and leases .....	0.95	0.51	0.57	0.81	0.54	0.80	0.72
Loans secured by real estate (RE) .....	0.08	0.07	0.09	0.07	0.08	0.07	0.08
1–4 family residential mortgages .....	0.07	0.08	0.08	0.09	0.10	0.08	0.08
Home equity loans .....	0.22	0.06	0.16	0.18	0.38	0.06	0.13
Multifamily residential mortgages .....	0.07	0.05	-0.01	0.07	0.09	-0.31	-0.02
Commercial RE loans .....	-0.02	0.06	0.10	0.06	0.02	0.14	0.06
Construction RE loans .....	0.09	0.05	0.08	0.01	0.05	-0.03	0.04
Commercial and industrial loans* .....	0.71	0.48	0.52	0.58	0.86	0.68	0.62
Loans to individuals .....	3.30	2.14	2.28	3.04	1.28	3.31	2.77
Credit cards .....	5.02	5.14	7.69	5.35	2.38	5.02	5.26
Installment loans .....	1.33	1.09	0.96	0.93	1.23	1.26	1.15
All other loans and leases .....	0.10	0.38	0.28	0.35	0.27	0.15	0.21
<b>Loans outstanding (\$)</b>							
Total loans and leases .....	\$1,004,032	\$754,758	\$577,930	\$251,459	\$166,838	\$483,542	\$3,238,559
Loans secured by real estate (RE) .....	323,767	382,019	263,481	115,284	74,439	186,428	1,345,418
1–4 family residential mortgages .....	182,590	198,089	125,996	59,689	32,177	70,069	668,610
Home equity loans .....	21,056	29,316	23,225	4,751	914	17,409	96,671
Multifamily residential mortgages .....	11,397	9,679	8,847	3,148	2,017	7,608	42,697
Commercial RE loans .....	69,382	102,299	77,203	28,737	27,008	66,365	370,996
Construction RE loans .....	11,889	36,799	20,938	9,472	9,181	18,437	106,715
Farmland loans .....	1,119	5,426	7,247	9,487	3,141	2,675	29,095
RE loans from foreign offices .....	26,334	411	25	0	0	3,866	30,635
Commercial and industrial loans .....	313,758	190,730	160,978	53,404	44,855	135,044	898,768
Loans to individuals .....	209,849	112,233	86,192	49,588	32,398	80,858	571,119
Credit cards .....	113,675	29,635	15,824	23,573	1,349	44,929	228,986
Installment loans .....	96,173	82,598	70,368	26,016	31,049	35,929	342,133
All other loans and leases .....	158,340	70,540	67,754	33,265	15,625	81,773	427,298
Less: Unearned income .....	1,683	764	474	83	479	561	4,043

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

# Glossary

## Data Sources

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

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

## Computation Methodology

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

## Definitions

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

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

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

**IBIS**—OCC's Integrated Banking Information System.

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

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

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

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

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

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

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

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

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

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

**Other real estate owned**—primarily foreclosed property. Direct and indirect investments in real estate ventures are excluded. The amount is reflected net of valuation allowances.

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

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

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

**Residential mortgage assets**—the sum of one- to four-family residential mortgages plus mortgage-backed securities.

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

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

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

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

**Securities**—excludes securities held in trading accounts. Effective March 31, 1994 with the full implementation of

Financial Accounting Standard (FAS) 115, securities classified by banks as "held-to-maturity" are reported at their amortized cost, and securities classified 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.



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# Year 2000 Reports

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## OCC Report to Congress on Year 2000 Activities— Third Quarter 1998

### Executive Summary

The Office of the Comptroller of the Currency (OCC) continues to actively address the year-2000 problem. We have been working with the other federal banking agencies to ensure that the banking system is making good progress on its year-2000 preparations. We also have been working to ensure the OCC's internal systems are year-2000 ready. The OCC has remediated all of its mission-critical systems, well in advance of Treasury Department deadlines.

Most of the national banks, service providers, and software vendors supervised by the OCC are making good progress in addressing their year-2000 problems. As of September 30, 1998, 97 percent of institutions are rated satisfactory, about 3 percent are rated needs improvement, and only seven institutions are rated unsatisfactory. While most of OCC-supervised institutions currently have satisfactory year-2000 programs in place, national banks are now in the middle of the most difficult phase of the remediation process—testing. Once financial institutions have completed testing and assessing the risks posed by customers, we will have a more reliable indication of the industry's overall readiness and risk exposure. As a result, bank ratings may fluctuate in the future.

The OCC continues to monitor a number of significant areas of risk facing the banking industry. This report focuses on international issues, readiness of telecommunications and power companies, and public confidence.

- In earlier reports to Congress, we expressed our concern that international year-2000 remediation efforts were lagging. We are seeing more positive signs that year-2000 awareness and action is increasing around the world. However, the OCC remains concerned about the potential adverse impact that global year-2000 problems could have on international financial markets, clearing and payment systems, financial institution liquidity, and overall economic performance.
- Over the past quarter, financial institutions have received more information on the year-2000 readiness efforts of telecommunications providers and power companies. Telecommunications providers are re-

portedly making progress toward remediating and testing telecommunications networks, while banks are still receiving less information from power companies.

- The OCC and other FFIEC members believe that educating bank customers about the year-2000 problem is critical to minimizing unwarranted public alarm. Accordingly, the OCC and FFIEC have suggested several methods that banks can consider to communicate effectively with various types of customers. The OCC will continue to encourage national banks to develop proactive customer awareness programs and we will continue to work with other FFIEC agencies to develop a coordinated public awareness strategy.

To address these and other year-2000-related risks, the FFIEC has established the Contingency Planning Working Group to address nine year-2000 systemic risk issues relating to liquidity, communications, infrastructure, evaluation of key players, international/payment systems, fraud, nonviable institutions, service providers and software vendors, and sharing interagency resources.

### Examinations of Financial Institutions

#### Update of Year-2000 Examination Activities

Based on the results of the OCC's year-2000 supervisory activities to date, the vast majority of national banks are on schedule to meet the Federal Financial Institutions Examination Council's June 30, 1999 deadline to complete their year-2000 remediation efforts. As of September 30, 1998, 97 percent of institutions are rated satisfactory, about 3 percent are rated needs improvement, and only seven institutions are rated unsatisfactory. (See Table 1 for a summary of year-2000 ratings of national banks, federal branches and agencies, service providers and software vendors.) These third-quarter ratings are similar to the second-quarter ratings, in which 96 percent of institutions were rated satisfactory, 4 percent were rated needs improvement, and eight institutions were rated unsatisfactory. Both the second and third quarter ratings were substantially higher than the first quarter ratings, in which 87



**Table 1—Year-2000 summary evaluations by asset size, September 30, 1998**

<i>Evaluation</i>	<i>&lt;\$100MM</i>	<i>\$100MM to \$500MM</i>	<i>\$500MM to \$1,000MM</i>	<i>Over \$1B</i>	<i>Overall percent (# Institutions)</i>
<i>Satisfactory</i>	96%	98%	98%	98%	97% (2,663)
<i>Needs Improvement</i>	3%	2%	2%	2%	3% (79)
<i>Unsatisfactory</i>	< 1%	< 1%	0%	< 1%	<1% (7)
<i>Number of Institutions</i>	1,562	890	118	179	2,749

Source: OCC year-2000 database

percent of institutions were rated satisfactory, 13 percent were rated needs improvement, and 17 institutions were rated unsatisfactory.

Despite the industry's good progress to date, the OCC finds that some institutions are experiencing difficulty in implementing comprehensive year-2000 testing programs. Specifically, during the third quarter, the OCC found that institutions that were rated less than satisfactory demonstrated several common problems and deficiencies, including:

- Inadequate testing programs;
- Inadequate vendor management;
- Incomplete remediation contingency plans;
- Failure to meet FFIEC timeframes; and
- Incomplete assessments of customer year-2000 risk.

While national banks' overall progress to date are encouraging, it is important to note that the OCC's year-2000 rat-

ings are no more than a point-in-time snapshot of the industry's progress and cannot necessarily predict the ultimate success of the industry's year-2000 remediation efforts. In some respects the improvement in ratings is the result of relatively straightforward corrections of process deficiencies. It is important to recognize that financial institutions are now undertaking the most difficult phase of the remediation process- testing. The OCC anticipates that ratings are likely to continue to fluctuate, particularly in the event institutions encounter problems during the testing phase. Once financial institutions have completed testing and assessing the risks posed by customers, the OCC will have a better indication of the industry's overall readiness and risk exposure.

In recognition of the important role that third-party service providers and software vendors play in processing data and developing software, the OCC and the other FFIEC agencies examine hundreds of service providers and software vendors. The OCC is the lead agency in examining five service providers under the Multi-Regional Data Processing Servicers (MDPS) program and four software vendors under the Shared Application Software Review

**Table 2— Year-2000 summary evaluations, service providers and software vendors, September 30, 1998**

<i>Summary Evaluation</i>	<i>OCC Supervised MDPS</i>	<i>OCC Supervised SASR</i>	<i>OCC Supervised Independent Data Centers</i>	<i>OCC Supervised Institutions Serving Nonaffiliated Institutions</i>	<i>Total</i>
<i>Satisfactory</i>	5	4	35	70	114
<i>Needs Improvement</i>	0	0	0	2	2
<i>Unsatisfactory</i>	0	0	0	0	0
<i>Total</i>	5	4	35	72	116

Source: OCC year-2000 database

(SASR). In addition, the OCC supervises and examines 31 independent data centers (IDCs) used by national banks and 69 banks and affiliated servicers that provide data processing services to nonaffiliated financial institutions. Table 2 provides a summary of year-2000 evaluations of OCC-supervised service providers and software companies.

While we expect the vast majority of national banks that rely on service providers and software vendors will be ready, we anticipate that some banks will experience problems. Because it can take up to three to six months for small- to medium-size institutions and over a year for large, complex banks to convert to new service providers, we are gathering information in upcoming examinations to determine the industry's capacity to absorb noncompliant institutions.

## Enforcement

The OCC is using a variety of enforcement tools to effect prompt remedial action by financial institutions which are rated less than satisfactory.<sup>1</sup> The OCC's enforcement policy is determined largely by: (1) an institution's year-2000 summary evaluation; (2) an institution's progress in complying with any previously issued supervisory directive or other informal or formal enforcement action; (3) the cooperation, responsiveness, and capability of the institution's management and board of directors; and (4) the time remaining prior to the year 2000.

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<sup>1</sup> A supervisory directive is a written instruction from the OCC to bank management ordering the bank to take specific corrective actions necessary to remediate a noted year-2000 deficiency. It is considered an informal enforcement action. A Memorandum of Understanding is a two-party agreement between the OCC and the bank that is used to reflect the bank's commitment to correct its problems. A Commitment Letter is a unilateral document that the bank sends to the OCC. Both are considered informal enforcement actions. A Formal Agreement is an agreement between the OCC and the bank that the OCC uses to require the bank's commitment to correct deficiencies. Violation of a Formal Agreement can be used as the basis for a cease and desist order and result in the imposition of a civil money penalty (CMP). A Consent Order is a Cease and Desist Order issued with the consent of the institution. It is similar in content to a Formal Agreement but, in addition to the assessment of CMPs for violations, the order can be enforced through an action for injunctive relief in federal district court. A Safety and Soundness Order is similar to a Consent Order, but it is imposed unilaterally by the agency following notice of failure to adhere to safety and soundness guidelines. Pursuant to 12 USC 1831p-1, the Federal banking agencies may require a bank that violates safety and soundness guidelines or regulations to file an acceptable corrective plan. Further, if the bank fails to submit or implement a plan, the agency may issue a "Safety and Soundness Order." The agencies issued on October 15, 1998 interim "Interagency Guidelines Establishing Standards for Safety and Soundness." See 12 C.F.R. Part 30, Appendix A. Formal Agreements, Consent Orders, and Safety and Soundness Orders are public documents; Supervisory Directives, Commitment Letters, and Memoranda of Understanding are not.

Through September 30, 1998, the OCC has issued 298 supervisory directives, entered into four memoranda of understanding and six formal agreements, obtained one commitment letter, and initiated the safety and soundness order process against four banks. In addition, the OCC has issued a consent order with an independent service provider, which has servicing contracts with three national banks, that received an unsatisfactory year-2000 summary evaluation.

## The Phase II Workprogram

The FFIEC adopted the Phase II Workprogram in June 1998, which is designed to be used through the first quarter of 2000. These examination procedures focus primarily on the validation (testing) and implementation phases of the year-2000 project plans and contingency planning. Under the Workprogram, the OCC plans to complete two onsite examinations by June, 1999. The first, targeted for completion by January 1999, will focus primarily on banks' testing plans. This examination will ensure that each institution has an adequate test plan in place prior to commencing its testing program. The second, to be completed early in the third quarter of 1999, will assess testing results and contingency planning efforts. This examination will identify institutions that are experiencing difficulties completing their testing programs or have not developed sufficient contingency plans.

The OCC's supervisory strategy should provide adequate time for the agency to take corrective action should testing plans prove inadequate. The OCC will continue to conduct more frequent year-2000 on-site examinations in those banks with inadequate remediation programs. Additionally, OCC examiners are continuing to conduct quarterly reviews at each national bank to update our year-2000 tracking system.

Completion of the OCC's year-2000 supervision work continues to require, a redirection of some resources away from non-year-2000 supervision activities. This has resulted in some delays in beginning regular on-site exams in small, highly rated, low-risk banks. However, we have not reduced our normal program of quarterly off-site reviews of all national banks during which we review each bank's current financial condition, update its risk profile, and revise our supervisory strategy as necessary to address any areas identified as having increasing risk.

## Examination Support

*Expertise.* The OCC's year-2000 supervisory strategy includes a program to help our examiners address problems they encounter by providing them with support from technical experts, including OCC information technology staff and outside consultants.

- *Rapid Response Team.* The OCC has formed a rapid response team of information technology (IT) and contracted experts to help examiners who request assistance on a particular examination. The team is assisting examiners in assessing testing processes in banks with complex operations and is now assessing the impact of year-2000 problems on the operations of banks with substantive testing problems or that are significantly behind FFIEC time deadlines.
- *Centralized Review of Data Centers.* During the month of September, a team comprised of examiners from the Bank Information System (BIS) cadre and year-2000 consultants reviewed the testing plans of a sample of service providers and software vendors supervised by the OCC. This centralized review was designed to provide consistent and in-depth review of testing plans. It has helped us to identify key issues for the OCC to consider when assessing testing plans of not only service providers and software vendors, but also their client banks.
- *Year-2000 Help Desk.* The OCC continues to support examinations through its year-2000 "help desk." Policy and operations staff, assisted by expert staff from our Information Technology Services unit, answer questions and assist examiners. OCC examiners ask questions by sending e-mails and faxes to our Year 2000 Supervision Policy unit. Answers to questions are posted on the OCC's internal year-2000 Web page.
- Designing and scheduling additional training that will focus on assessing testing results and business resumption contingency planning. We expect to conduct this training during the first quarter of 1999.

*Testing.* Testing is the most critical step in ensuring that year-2000 remediation efforts work effectively. To better monitor bank efforts and assist our efforts to identify banks with significant deficiencies, the OCC is collecting various data on each national bank's testing program. As of September 30, 1998, about 60 percent of financial institutions examined by the OCC had begun the validation phase for mission-critical systems, an increase from 25 percent in June 30, 1998.

The OCC and the other FFIEC agencies continue to participate in industry-sponsored conferences and seminars to emphasize the importance of testing and to answer questions regarding FFIEC expectations. We are working closely with the Bank Administration Institute on its efforts to coordinate year-2000 testing among participating bank and we are continuing to monitor the efforts of the Mortgage Bankers Association in their efforts to coordinate testing of mortgage banks and mortgage-related Government Sponsored Enterprises.

## Recent FFIEC Guidance

### Q&A on Year 2000 Contingency Planning

In December, the FFIEC plans to release "Questions and Answers Concerning Year 2000 Contingency Planning." This guidance responds to frequently asked questions of financial institutions concerning year-2000 contingency planning. The Q&A guidance describes a number of important issues related to effective contingency planning, including the factors that financial institutions should consider in developing business resumption contingency plans. In developing year-2000 business resumption contingency plans, the FFIEC Q&A document states that financial institutions should consider: educating customers about the year-2000 problem in order to minimize unwarranted public alarm that could cause serious problems for financial institutions and their customers; evaluating the cash demands of a financial institution's customers to determine whether it needs to arrange for additional cash reserves; anticipating unusual funding needs in late 1999 and early 2000 arising, for example, from a surge in deposit outflows or loan demand; ensuring that financial institution employees are trained to implement year-2000 business resumption contingency plans; and validating the year-2000 business resumption contingency plan using an independent and qualified source. The FFIEC expects financial institutions to substantially complete the four phases of the business

*Environmental Systems.* The OCC is evaluating the year-2000 plans for environmental systems of the 30 largest national banks. The findings from the reviews are factored into the overall year-2000 assessment of each of these banks. The environmental systems reviews began in September, and are scheduled for completion in the first quarter of 1999.

*Training.* The OCC has an extensive and ongoing training program. Initiatives completed since the last report include:

- Developing a CD-ROM-based training tool that all OCC employees can use to get general information on the year-2000 problem, FFIEC guidance, and the OCC's supervisory activities. The OCC plans to make available in December a slightly modified version of this CD-ROM to all national banks.
- Holding a series of conference calls to keep examiners apprised of the latest year-2000 developments, answer questions, and address examination issues. The conference calls, began in early September, will be held every four to six weeks, and will continue for as long as they are necessary.

resumption contingency planning process as soon as possible, but not later than June 30, 1999.

## **Safety and Soundness Standards**

On October 15, 1998, the OCC, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of Thrift Supervision issued year-2000 guidelines establishing minimum standards for safety and soundness under section 39 of the Federal Deposit Insurance Act (12 USC 1831p-1). The year-2000 safety and soundness guidelines are based on FFIEC year-2000 guidance on testing, contingency planning, customer risk, customer awareness, and the project management process. The guidelines distill certain essential requirements from these prior issuances and they are fully consistent with those prior issuances. The guidelines were effective upon publication, but subject to a comment period which expires on December 14, 1998.

Under section 39, standards adopted as guidelines vest the banking agency with discretion to take rapid and effective action with respect to banks that violate the guidelines. Specifically, the agency can require a violating bank to provide an acceptable plan for becoming compliant with the guidelines. If a bank either fails to provide an acceptable plan or fails to implement that plan, the agency may issue a safety and soundness order, which is immediately enforceable to the same extent as a cease and desist order issued under 12 USC 1818. The section 39 safety and soundness guidelines and remedies are especially appropriate to deal with the year-2000 problem because section 39 permits prompt and effective supervisory action. With the century date change rapidly approaching, the banking agencies may not have time to use conventional enforcement remedies under 12 USC 1818.

The guidelines describe certain essential steps that each national bank must take to ensure its mission-critical systems are year-2000 ready. For example, the guidelines require a bank to ensure the involvement of the board of directors and management in its year-2000 efforts, adopt a project plan, update its mission-critical systems, complete tests of these updates by specific testing deadlines, plan for contingencies, and manage customer risk. If a bank has developed and adopted plans and procedures to achieve year-2000 readiness, it need not prepare new plans and procedures just to satisfy the guidelines. Plans and procedures adopted will suffice if our review indicates that they are acceptable.

## **Outreach Efforts**

As of November 30, 1998, OCC representatives from the Washington headquarters office have participated in 93

outreach meetings with various groups, including bankers, service providers, software vendors, and other representatives from the financial community. In conjunction with the other FFIEC agencies, we have held regular meetings to discuss year-2000 issues with representatives from the Bank Administration Institute, American Bankers Association, Independent Bankers Association of America, and other financial institutions trade associations. The OCC, through its six district offices, have sponsored outreach programs with community, mid-sized, and credit card banks within each district. In addition, district office management and staff have participated in approximately 124 outreach meetings around the country sponsored by the FFIEC and state bankers associations. To date, over 11,300 bankers have participated in meetings held in 38 states.

## **Major Risk Factors and Concerns**

The following is a brief overview of the significant risk factors facing the banking industry- international, infrastructure, and public confidence- and the OCC's efforts to address these risk factors.

### **International**

*International year-2000 status.* Based on recent information obtained from our examinations of internationally active national banks, as well as through external outreach activities, we are seeing more positive signs that year-2000 awareness and action is increasing around the world. For example, more information regarding the year-2000 remediation and testing programs of many key foreign private and public sector entities is becoming available. However, it is troubling that some countries are just now initiating year-2000 awareness programs.

The OCC remains concerned about the global state of year-2000 preparedness and the potential adverse impact that year-2000 problems could have on international financial markets, clearing and payment systems, financial institution liquidity, and overall economic performance. Operational breakdowns caused by insufficient year-2000 preparations by a major global financial firm could cause significant liquidity pressures for market participants. In addition, unwarranted reaction by market participants and the general public to potential year-2000 disruptions could precipitate instability in the global financial markets. Active governmental and private sector communication efforts are necessary to reassure the public that appropriate corrective measures are being taken to address the year-2000 problem in the global financial market.

Gathering information on the year-2000 readiness of vital infrastructure platforms abroad has been difficult. In recent months, however, international infrastructure associations, such as the International Telecommunications

Union, have become more responsive to requests for information on year-2000 risk of their members.

*OCC's international year-2000 activities.* The OCC is working with other bank supervisors through bilateral and multilateral discussions to develop year-2000 examination procedures and year-2000 contingency planning guidance for international financial market supervisors. The OCC is an active contributor to the Basle Committee on Banking Supervision and the Joint Year 2000 Council.<sup>2</sup> Through our participation in the Basle Committee, we have helped to focus international bank supervisors on the global significance of the year-2000 issue. For example, the OCC has helped to develop cross-border year-2000 coordination principles and examination procedures, and we are currently working to develop guidance on year-2000 contingency planning for international bank supervisors. In addition, we are working with the Basle Committee to develop an international survey on the preparedness of individual countries. This survey follows up on a 1997 Basle Committee survey. The Basle Committee intends to provide survey results to the supervisory authorities in all the countries that participated in the survey.

The OCC is collaborating with the Global 2000 Coordinating Group.<sup>3</sup> The group currently consists of over 80 financial institutions and associations representing over 30 countries. The OCC attends the regional year-2000 round table meetings that are sponsored by this group every six weeks. Through this effort, we obtain vital information on global financial industry's collective year-2000 efforts. The Global 2000 Coordinating Group has initiatives underway to identify areas where cross-border coordination could facilitate efforts by the global financial community to improve global Y2K readiness of trading, settlement and payment systems; to coordinate testing schedules in key financial markets; to develop firm readiness self-assessments templates and to encourage public disclosure of these self-assessments; to discuss possible contingency measures; and to foster coordination between international public and private sector year-2000 programs.

On October 5-6, the OCC offered a year-2000 seminar in Mexico City, Mexico for the benefit of members of the Association of Banking Supervisors of Latin America and the

Caribbean. Over 30 senior foreign bank examiners participated in this event. The OCC also recently participated in a Latin American Regional Year 2000 Roundtable sponsored by the Joint Year 2000 Council in Miami on November 23-24 and will assist in a Year 2000 Examiner Training Conference for Latin American Bank Supervisory authorities in Santiago, Chile on December 8-10.

As part of the OCC's ongoing efforts to gather information on international year-2000 risk, our Global Banking Division is collecting global year-2000 readiness information through our examinations of internationally active national banks and federally licensed branches and agencies of foreign banks, outreach activities with global market participants, and contacts with domestic and foreign supervisors. In addition, several senior OCC examiners have visited foreign countries to assess the readiness of major foreign banks and efforts being made by foreign bank supervisors. The information we are collecting will help the OCC identify and assess the year-2000 progress of international financial systems, clearing and settlement systems, and infrastructure providers that could have an impact on the operations of U.S. banks. The OCC is also exploring ways to share this information with our fellow regulators.

## **Infrastructure (Telecommunications/Power)**

Over the past quarter, national banks and federal branches and agencies have received more information on the year-2000 readiness efforts of telecommunications providers and power companies. Many institutions report that their telecommunications providers are making adequate progress toward remediating and testing telecommunications networks. Less information has been forthcoming from power companies.

The OCC continues to remind financial institutions to gather information from and assess year-2000 readiness efforts of, all mission-critical service providers, including telecommunications providers and power companies. As part of the Phase II Workprogram, OCC examiners will review progress of national banks' efforts to assess year-2000 readiness of infrastructure providers.

The OCC continues to be an active participant in the Financial Institutions Subgroup of the President's Council on Year 2000 Conversion. On behalf of the Council, the regulators are sponsoring a series of on-day summit meetings with the industry on the year 2000. On December 3, 1998 the FDIC and Federal Reserve sponsored a conference to address infrastructure issues, particularly those related to telecommunications and power companies. On March 9, 1999, the OCC is co-sponsoring with the OTS a one-day year-2000 summit to address contingency planning. In addition, the OCC participates in the monthly

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<sup>2</sup> The Basle Committee formed the Year 2000 Task Force to facilitate information-sharing and year-2000 supervision policy coordination among bank supervisors. The Joint Year 2000 Council is a multilateral group of international financial market regulatory authorities that facilitates information sharing on regulatory and supervisory year-2000 strategies, develops contingency planning measures, and establishes links with national and international private sector organizations.

<sup>3</sup> The Global Year 2000 Coordinating Group includes representatives from financial institutions and associations in multiple markets (e.g., banking, securities, insurance) and from over 30 countries.

meetings of the Securities Industry Association Facilities Subgroup and disseminates information to its examiners and to the other FFIEC agencies. The OCC also participates in the bi-weekly conference calls of the Bank Administration Institute's Facilities Subgroup to discuss infrastructure issues with participating bankers.

## Public Confidence

The OCC and the other federal financial regulators believe that educating bank customers about the year-2000 problem and the progress the industry is making to address the problem is critical to maintaining public confidence in the banking system. As the time grows nearer to the century date change, banks and their regulators must continue efforts to educate consumers.

Earlier this year, the FFIEC issued guidance instructing financial institutions to provide complete and accurate responses to questions and concerns their customers raise and to develop a customer awareness program by September 30, 1998. We advised banks to establish appropriate communications channels to respond effectively to customer inquiries and to respond to customers should unfavorable events occur.

The OCC and the other federal banking agencies have released information on the industry's year-2000 remediation efforts, including the OCC's quarterly reports to the Congress on year-2000 supervisory efforts and quarterly letters from the Acting Comptroller to national bank CEOs. These documents are publicly available on the OCC's Internet web page ([www.occ.treas.gov](http://www.occ.treas.gov)). OCC officials also have discussed the aggregate industry ratings at numerous industry conferences, OCC-sponsored outreach events, and in response to inquiries from the industry and the press. Going forward, the OCC will include a section on year-2000 remediation in our report on the condition of the banking industry, which we release publicly each quarter.

The OCC also has clearly communicated to banks that our public awareness efforts cannot be a substitute for aggressive outreach programs by the banks. The OCC believes financial institutions are in the best position to communicate with their customers. Accordingly, the OCC and the other federal financial regulators have suggested several methods that banks can consider to communicate effectively with various types of customers. For example, banks should consider providing informational brochures or other written disclosures in monthly or quarterly statements; establishing toll-free hotlines for customer inquiries; holding seminars to discuss the year-2000 problem and efforts the financial institution is taking to prepare for the century date change; and developing Internet sites, or dedicating a portion of their existing site, to inform customers of their year-

2000 preparedness. While banks can and should disclose as much information to their customers as appropriate, supervisory agencies have reminded them that they are not authorized to disclose their year-2000 supervisory ratings and the contents of the examination reports.

## FFIEC Contingency Planning

The OCC chairs the FFIEC Contingency Planning Working Group, which was formed to address year-2000 systemic risk concerns. Nine subgroups began meeting in early October to prepare recommendations for possible interagency action to better manage and mitigate potential year-2000 risks. Final subgroup recommendations are scheduled to be considered by the FFIEC by March 1, 1999. The following is a brief description of the nine subgroups to address liquidity, communications, infrastructure, key players, international payment systems, fraud, nonviable institutions, service providers and software vendors, and sharing resources:

- The liquidity subgroup will identify potential systemic year-2000 liquidity issues and propose regulatory action to manage or mitigated year-2000 risk that may be experienced in both the wholesale and retail markets.
- The communications subgroup will evaluate the agencies' communications strategies and plans relating to the year 2000 to determine where overlap exists and what efforts might be undertaken jointly. It also will develop and implement a plan for sharing information on the industry's year-2000 remediation efforts and communicating it to the public before, during and after the century date change.
- The infrastructure subgroup will assess the ability of the interagency group, in coordination with other governmental agencies (e.g., the President's Council) and trade associations (e.g., SIA), to influence the activities of the infrastructure providers through interaction with infrastructure provider regulators, trade groups, and the providers themselves.
- The subgroup responsible for the evaluation of key players will develop an interagency framework for the evaluation of those financial services firms that participate most significantly in "strategic markets," that is, those markets in which even a temporary disruption could have significant implications to the broader capital markets.
- The international payment systems subgroup will develop strategies to facilitate information sharing regarding year-2000 preparedness in foreign countries among banking agencies, public and private sector groups, and market participants. The objective is to develop recommendations on how to respond to expected and unexpected contingencies with a focus

on communication and coordination with domestic and international regulators, and private sector participants.

- The fraud subgroup will develop guidance to be used by staff, the FFIEC member agencies' regulated financial institutions, and the public to increase their vigilance to avoid year-2000-related fraud. The guidance may focus on how to deal with potential fraud problems and contain suggestions for identifying risk areas and resources for use in developing anti-fraud programs.
- The nonviable institutions subgroup will work to develop the legal basis to resolve institutions from a year-2000 perspective; study the feasibility of adopting a standard data set of information that each institution would be required to maintain on back-up tapes; set-up procedures for interagency cooperation on clearing bidders to participate in the year-2000 resolution process; and develop a set of instructions and templates to be used by the examiners to prepare the Information Package for any institution failing due to a year-2000 problem or resulting liquidity crisis.
- The service providers and software vendors subgroup will address issues concerning the critical role of potential year-2000-related disruptions at significant service providers and software vendors that service multiple financial institutions.
- The sharing resources subgroup will work to identify agency resources and staff with the range of critical skills necessary to address potential problems and operational/funding issues arising from the year-2000-century date change. The subgroup also is responsible for developing the information, processes, and procedures necessary to allow each of the agencies to appropriately share resources in the context of year-2000 initiatives and/or problems.

In addition, the OCC plans to develop contingency plans to address credit risk concerns associated with year-2000-related operational issues.

## OCC Internal Remediation Efforts

### Overview of OCC's Internal Year-2000 Remediation Efforts

The OCC completed year-2000 renovation and validation of all mission-critical systems on November 30, 1998, well in advance of Treasury Department deadlines.

*Mission-critical IT systems.* The OCC identified 13 mission-critical information technology (IT) systems that sup-

port the key business functions of the agency.<sup>4</sup> One of the 13 is now retired (trust billing); the remaining 12 mission-critical IT systems have been renovated and validated as year-2000 compliant. Because of a delay in the renovation of three mission-critical systems, several dates in Table 3 below are one to two months later than we reported in the September 1998 report.

The OCC's mission-critical IT systems exchange data with five external parties: the Federal Reserve, the Federal Deposit Insurance Corporation, the National Finance Center, Treasury, and the First National Bank of Chicago. The OCC established bridge programs for data exchanges with the National Finance Center and the First National Bank of Chicago. All of the OCC's 31 external data exchanges are year-2000 compliant or bridges are in place for noncompliant data received from outside parties. The OCC continues to meet monthly with its primary data exchange partners to discuss project plans and testing schedules.

*Non-mission-critical IT systems.* As of November 30, 1998, the OCC has 266 non-mission-critical IT systems, of which 19 required renovation. Of these 19 systems, 17 have been renovated, validated and implemented as year-2000 compliant. The remaining two will be completed by January 31, 1999.

*Non-IT mission-critical systems.* The OCC continues to monitor progress toward completion of the renovation, validation, and implementation phases of non-IT systems at all nine primary sites. The Non-IT Year 2000 Project Team conducted periodic follow-up with the building management companies at all primary sites.<sup>5</sup>

The OCC notes that the building management companies at primary sites are making good progress in addressing all mission-critical systems. Delays in meeting original milestones are primarily due to the dependence of these companies on vendors and manufacturers. Twenty-five mission-critical systems were identified and assessed. Of these systems, 13 systems are compliant and 12 systems are noncompliant. Nine of the noncompliant systems are scheduled for replacement while three are scheduled for repair. One system renovation has been completed, while the remaining 11 are currently awaiting renovation, validation, and implementation. Three sites plan to meet the March 31, 1999, milestone established by the OMB for all

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<sup>4</sup> The mission-critical systems are Consolidated Application System, Time and Travel Reporting System, Time Entry, General Financial System, Salary Allocation, Bank Assessment, Lockbox, Security Authorization, Budget Code Restructure, Corporate Activities Information System, Supervisory Monitoring System, National Bank Surveillance Video Display System, and Trust Billing.

<sup>5</sup> Please note that the OCC leases all of its building facilities. Consequently, the OCC is working closely with building management at each primary site.

**Table 3— OCC Year-2000 Remediation Schedule for Mission-Critical Systems**

System	Renovation	Validation	Implementation	IV&V	Certification	Contingency Plan	Trigger Date
CAS	✓	✓	✓ (04/25/98)	✓	✓ (11/12/98)	✓	1/3/2000
TTRS	✓	✓	✓ (07/28/98)	✓	✓ (11/09/98)	✓	1/3/2000
TE	✓	✓	✓ (03/20/98)	✓	✓ (11/20/98)	✓	1/3/2000
SA	✓	✓	✓ (02/28/98)	✓	✓ (10/22/98)	✓	1/5/2000
GFS	✓	✓	✓ (11/30/96)	✓	✓ (10/09/98)	✓	1/3/2000
BA	✓	✓	✓ (02/14/98)	✓	✓ (11/30/98)	✓	1/31/2000
LOCKBOX	✓	✓	✓ (02/19/98)	✓	✓ (10/09/98)	✓	1/3/2000
AZ	✓	✓	✓ (02/14/98)	✓	✓ (11/30/98)	✓	6/1/1999
BCR	✓	✓	✓ (07/24/98)	✓	✓ (11/30/98)	✓	1/3/2000
CAIS	✓	✓	✓ (11/22/98)	✓	✓ (11/30/98)	✓	1/1/2000
SMS	✓	✓	✓ (11/01/98)	✓	✓ (11/20/98)	✓	1/1/2000
NBSVDS	✓	✓	✓ (11/01/98)	✓	✓ (11/20/98)	✓	1/1/2000
Trust Billing	*	*	*	N/A	N/A	N/A	NA

\* Trust Billing was retired as of 10/31/98. Not necessary to make Y2K compliant.

✓ Completed, date in parentheses is actual completion date

mission-critical systems while five sites plan to meet the OMB milestone for some, but not necessarily all, of their mission-critical systems. Only one site is currently not planning to complete renovation, validation, and implementation until the second or third quarter of 1999.

### **Business Continuity Plan**

The OCC has contracted with KPMG to assist in the development of a revised Business Continuity Plan. To facilitate this effort, the OCC identified five core business processes. They include: bank supervision policies and procedures, strategic planning and systemic risk management, individual bank supervision, enforcement, and corporate activities. A comprehensive work plan has been developed and includes a business impact analysis to be completed by December 31, 1998. Implementation and testing will occur in the first quarter of 1999 before the Treasury milestone of March 31, 1999.

### **Contingency Planning and Testing**

Business unit representatives will review all systems contingency plans in December 1998, June 1999, and No-

vember 1999 to determine if they are still operative and will sufficiently replace the automated system functions for a reasonable period of time. Business unit representatives, in collaboration with ITS staff and the OCC's Chief Information Officer, will develop a testing strategy and plan for each mission-critical system contingency plan. Non-mission-critical systems with complex contingency plans and those with sufficient importance or size will also have a testing strategy and plan. The contingency plan tests will be performed during January 1999, July 1999, and December 1999.

Finally, as an additional level of safety and to ensure that connected systems function properly, the OCC plans to expand its testing efforts of each mission-critical system to conduct simultaneous agency-wide tests. By March 1999, the OCC plans to conduct tests among multiple internal mission-critical system, external parties, and infrastructure providers. We expect these tests, in addition to the tests we have done on individual or closely clustered systems, will ensure that the OCC's entire computing environment can operate properly in a forward date testing environment.



# OCC Report to Congress on Year 2000 Activities— Fourth Quarter 1998

## Executive Summary

Based on the results of the OCC's year-2000 supervisory activities to date, the vast majority of national banks remain on schedule to meet the June 30, 1999 Federal Financial Institutions Examination Council deadline to complete year-2000 remediation efforts. Highlights of the progress made by national banks and the OCC to date include:

- Most banks are well into their validation (testing) phase. OCC examinations reveal that most testing plans are satisfactory.
- The OCC is using a variety of enforcement tools to effect prompt remedial action by financial institutions that are rated less than satisfactory.
- The FFIEC issued additional guidance in the form of Questions and Answers on Year 2000 Contingency Planning, Customer Communications Outline, and Year 2000 Safety and Soundness Standards.
- The OCC is actively involved with the other FFIEC agencies in contingency planning for the year 2000.
- Public confidence concerns, international year-2000 efforts, and infrastructure issues continue to be major risk factors facing banks and banking regulators in addressing year-2000 problems.
- The OCC completed year-2000 renovations and validation of all its internal mission-critical systems on November 30, 1998.

The OCC's comprehensive year-2000 supervision program, which includes on-site and off-site examinations, examiner training, quality assurance mechanisms, and outreach programs, ensures that national banks address year-2000 concerns and take appropriate corrective actions in advance of the century date change.

## Examinations of Financial Institutions

### The Phase II Workprogram— Examination Results

The FFIEC adopted the Phase II Workprogram in June 1998. The workprogram is designed to be used through the second quarter of 2000. The Phase II examination procedures focus primarily on the validation (testing) and implementation phases of the year-2000 project plans and contingency plans. The OCC will complete two onsite examinations of all national banks and federal branches and agencies by July 1999. The first examination, which was completed by January 1999, focused primarily on evaluating test plans to determine if each institution had an adequate test plan in place prior to commencing its testing program. The second round, now under way, concentrates on evaluating testing results, business resumption contingency plans, and customer risk assessments and awareness programs.<sup>1</sup> The OCC will conduct additional year-2000 on-site examinations, as appropriate, in those banks that have inadequate year-2000 project programs, and will continue to conduct quarterly reviews at each national bank to monitor national bank preparations and follow-up on any outstanding supervisory issues.

The results of our examinations through December 31, 1998 showed 97 percent of the approximately 2,700 institutions supervised by the OCC (national banks, service providers, software vendors, federal branches, and credit card banks) were rated "satisfactory." Three percent were rated "needs improvement" and nine institutions were rated

<sup>1</sup> The OCC's second round of Phase II examinations and ongoing quarterly reviews are similar in scope to examinations being conducted by other federal banking agencies and referred to by those agencies as "Phase III" examinations.

**Table 1—Year-2000 summary evaluations by asset size, December 31, 1998**

<i>Evaluation</i>	<i>&lt;\$100MM</i>	<i>\$100MM to \$500MM</i>	<i>\$500MM to \$1,000B</i>	<i>Over \$1B</i>	<i>Overall percent (# Institutions)</i>
<i>Satisfactory</i>	98%	98%	98%	92%	97%
<i>Needs Improvement</i>	2%	2%	2%	8%	3%
<i>Unsatisfactory</i>	< 1%	< 1%	1%	0%	<1%

Source: OCC Year 2000 database

"unsatisfactory." These fourth quarter ratings are similar to the third quarter ratings, in which 96 percent of institutions were rated "satisfactory," four percent were rated "needs improvement," and eight institutions were rated "unsatisfactory."

The OCC found that institutions that were rated less than satisfactory during the fourth quarter demonstrated several common problems and deficiencies, including:

- Inadequate testing programs,
- Inadequate vendor management,
- Incomplete remediation contingency plans,
- Failure to meet FFIEC timeframes, and
- Incomplete assessments of customer year-2000 risk.

While national banks' overall progress to date is encouraging, it is important to note that the OCC's year-2000 ratings are no more than a point-in-time snapshot of the industry's progress and cannot necessarily predict the ultimate success of the industry's year-2000 remediation efforts. In some respects, the overall improvement in ratings throughout 1998 was the result of relatively straightforward corrections of process deficiencies. The OCC anticipates that ratings of some institutions may fluctuate, particularly if institutions encounter problems during the testing phase.

## Testing Efforts

Testing is the most critical step in ensuring that year-2000 remediation efforts were effective. To better monitor bank efforts and enhance our ability to identify banks with significant deficiencies, the OCC is collecting data on each national bank's testing program. As of December 31, 1998, about 83 percent of financial institutions examined by the OCC had begun the validation phase for mission-critical systems and 9 percent were in the implementation phase, an increase from 60 percent of institutions which had begun the validation phase and 3 percent which were in the implementation phase by September 30, 1998.

The vast majority of national banks expect to meet the FFIEC's June 30, 1999 completion date for testing and implementation of year-2000 ready systems. Banks report

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<sup>2</sup> In proxy testing, the service providers or software vendors test with a representative sample of financial institutions that use a particular service or software program. Test results then are shared with similarly situated clients of the service provider or users of the software package.

that testing efforts are taking longer and are costing more than anticipated to complete. The OCC has found few substantive issues associated with testing. However, the OCC is seeing some slippage for a small percentage of institutions, as target dates for completion of testing and implementation move from the first quarter to the second quarter of 1999. Among the issues that banks have discovered include problems associated with leap year day- February 29, 2000. Testing efforts reveal that leap year day continues to generate errors in computer programs.

While the OCC's examination results reveal that most banks' test plans are adequate, some bank plans have not been sufficiently comprehensive. By conducting a first round of Phase II examinations early on, the OCC's supervisory schedule has allowed banks time to expand or correct their programs and to develop more comprehensive plans. By year-end 1998, only a few test plan deficiencies were still outstanding.

The OCC has developed a program to centrally review proxy test results and disseminate the findings to all examiners through our internal year-2000 Web site.<sup>2</sup> The proxy test reviews are being conducted by contracted experts with oversight and input from examiners that supervise the respective institutions. The program will help us draw consistent conclusions, communicate key concerns, and identify needed follow-up. The centralized review of proxy tests began late in the fourth quarter 1998 and will continue throughout the remainder of the OCC's review of test results.

The OCC and the other FFIEC agencies continue to participate in industry-sponsored conferences and seminars to emphasize the importance of testing and to answer questions regarding FFIEC expectations. We are working closely with the Bank Administration Institute in its efforts to coordinate year-2000 testing among participating banks, and we continue to monitor the efforts of the Mortgage Bankers Association in its efforts to coordinate testing of mortgage banks and mortgage-related Government Sponsored Enterprises.

## Service Providers and Software Vendors

In recognition of the important role that third-party service providers and software vendors play in processing data and developing software, the OCC and the other FFIEC agencies are examining hundreds of service providers and software vendors. The OCC is the lead agency in examining five service providers under the Multi-Regional Data Processing Servicers (MDPS) program and four software vendors under the Shared Application Software Review (SASR) program. In addition, the OCC supervises and examines 34 independent data centers (IDCs) used by national banks, and 76 banks and affiliated servicers that provide data processing

**Table 2— Year-2000 summary evaluations, service providers and software vendors, December 31, 1998**

<i>Summary Evaluation</i>	<i>OCC Supervised MDPS</i>	<i>OCC Supervised SASR</i>	<i>OCC Supervised IDC's</i>	<i>OCC Supervised Institutions serving Non-affiliated Institutions</i>	<i>Total</i>
<i>Satisfactory</i>	5	4	33	75	117
<i>Needs Improvement</i>	0	0	1	1	2
<i>Unsatisfactory</i>	0	0	0	0	0
<i>Total</i>	5	4	34	76	119

Source: OCC Year 2000 database

services to non-affiliated financial institutions. The ratings for service providers and software vendors have not changed significantly since the third quarter. Table 2 provides a summary of fourth quarter year-2000 evaluations of OCC-supervised service providers and software companies.

During the third and fourth quarters, a team comprised of examiners from the OCC's Bank Information System (BIS) cadre and year-2000 consultants reviewed the testing plans of large service providers and software vendors supervised by the OCC. This centralized review was designed to provide consistent and in-depth reviews of testing plans. It has helped the OCC to identify key issues to consider when assessing testing plans of service providers, software vendors, and their client banks. The OCC shared the results of these reviews with the other FFIEC member agencies. The OCC's external consultants assist the OCC in reviewing selected proxy test results.

The OCC expects the vast majority of national banks that rely on service providers and software vendors will be ready for the century date change. However, we continue to gather information during examinations to assess the exposure of banks to service providers and software vendors with less than satisfactory ratings. We also are assessing the capacity of "satisfactory" rated service providers and software vendors to absorb institutions serviced by non-compliant servicers.

### **Quality Assurance of Year-2000 Ratings**

*Clarification of ratings.* At the conclusion of each year-2000 examination, the OCC assigns a "satisfactory," "needs improvement," or "unsatisfactory" rating. The year-2000 summary rating criteria were clarified in a memorandum issued to all OCC examiners in November 1998 and

in a February 17, 1999 letter from Comptroller Hawke to all national bank CEOs. The ratings are based on the following criteria:

- Satisfactory - A bank should be rated "satisfactory" if it: is expected to meet all FFIEC testing time frames on or shortly after the prescribed target dates; has a written testing program that adequately addresses all testing issues; has completed assessing material customers' year-2000 preparedness; has developed an adequate customer awareness strategy; and has adequate remediation contingency plans for mission-critical systems and has begun development of year-2000 business resumption contingency plans.
- Needs improvement - A bank should be rated "needs improvement" if it: is not expected to meet all FFIEC testing time frames on or shortly after the target dates; its written testing program does not adequately address all testing issues; its assessment of material customers' year-2000 preparedness is incomplete; its customer awareness strategy is incomplete or is not responsive to customer concerns; or its remediation contingency plans are inadequate and it has not begun development of year-2000 business resumption contingency plans.
- Unsatisfactory - A bank should be rated "unsatisfactory" if it is seriously behind its testing schedule and is not expected to meet the June 30, 1999 FFIEC deadline; does not have a written testing program; has not completed an assessment of its material customers' year-2000 preparedness; has not developed an adequate customer awareness strategy; does not have remediation contingency plans in place; or has not begun development of year-2000 business resumption contingency plans.

*Review of examinations and reporting.* In addition to clarifying ratings, the OCC has implemented two other quality assurance mechanisms to ensure that our year-2000 summary ratings are accurate. First, the OCC developed a year-2000 database that requires examiners to answer specific questions on each national bank's year-2000 project plan and compliance with FFIEC guidance. It allows the OCC to monitor the national banking system's progress in addressing year-2000 problems, identify systemic issues, and assist in meeting the information needs of senior management and outside sources. A number of the key questions are analyzed to determine if any apparent inconsistencies exist between the database responses and the institution's year-2000 rating. Exceptions prompt examiners and senior supervisory staff to review documentation to ensure that year-2000 ratings are fully supported.

The second mechanism is a more in-depth review of year-2000 examinations to assess the quality and consistency of supervision among national banks and service providers. A team of experienced examiners are assessing examination results of a sample of independent data centers and large, mid-sized, and community banks with less than satisfactory ratings. The objective of the reviews is to assess whether defined examination objectives of the Phase II Workprogram were met. These reviews of year-2000 examinations began in August 1998 and will continue through June 1999.

These quality assurance processes improve the accuracy of our year-2000 ratings and the integrity of our year-2000 database.

## **Enforcement**

The OCC is using a variety of enforcement tools to effect prompt remedial action by financial institutions which are rated less than satisfactory. The OCC's enforcement policy is determined largely by: (1) an institution's year-2000 rating; (2) an institution's progress in complying with any previously issued supervisory directive or other informal or formal enforcement action<sup>3</sup>; (3) the cooperation, responsiveness, and capability of the institution's management and board of directors; and (4) the time remaining prior to the year 2000.

As of February 16, 1999, the OCC has issued 339 Supervisory Directives and one Safety & Soundness Order; entered into seven Memoranda of Understanding and eight Formal Agreements; obtained seven Commitment Letters; and initiated the Safety & Soundness Order process against eight banks, all of which have submitted acceptable Safety & Soundness Plans. In addition, the OCC has issued a Consent Order to an independent service provider that has servicing contracts with three national banks and that received an "unsatisfactory" year-2000 summary evaluation.

The OCC's year-2000 enforcement policy centralizes decision making in Washington, D.C. in order to ensure uniform responses. All recommendations for formal and informal enforcement actions, other than Supervisory Directives, are considered by the Washington Supervision Review Committee, which advises the Senior Deputy Comptroller for Bank Supervision Operations, Leann G. Britton. Ms. Britton authorizes formal and informal enforcement actions, including the initiation of the Safety & Soundness Order process against banks.

The OCC's year-2000 enforcement policy requires the agency to take progressively more severe actions against banks that are lagging in their year-2000 readiness preparations as time progresses toward the century date change. Consequently, for banks that receive "needs improvement" and "unsatisfactory" ratings, we now are relying more heavily on the Safety & Soundness Order process, and less on Supervisory Directives and other informal enforcement tools. Overall, we believe that the enforcement actions we have taken to date have been successful in prompting banks to comply with FFIEC and OCC year-2000 policy.

## **Examination Support**

*Expertise.* The OCC's year-2000 supervision strategy includes a program to help examiners address problems

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<sup>3</sup> A Supervisory Directive is a written instruction from the OCC to bank management ordering the bank to take specific corrective actions necessary to remediate a noted year-2000 deficiency. It is considered an informal enforcement action. A Memorandum of Understanding is a two-party agreement between the OCC and the bank that is used to reflect the bank's commitment to correct its problems. A Commitment Letter is a unilateral document that the bank sends to the OCC. Both are considered informal enforcement actions. A Formal Agreement is an agreement between the OCC and the bank that the OCC uses to require the bank's commitment to correct deficiencies. Violation of a Formal Agreement can be used as the basis for a cease and desist order and result in the imposition of a civil money penalty (CMP). A Consent Order is a Cease and Desist Order issued with the consent of the institution. It is similar in content to a Formal Agreement but, in addition to the assessment of CMPs for violations, the order can be enforced through an action for injunctive relief in federal district court. A Safety and Soundness Order is similar to a Consent Order, but it is imposed unilaterally by the agency following notice of failure to adhere to safety and soundness guidelines. Pursuant to 12 USC 1831p-1, the Federal banking agencies may require a bank that violates safety and soundness guidelines or regulations to file an acceptable corrective plan. Further, if the bank fails to submit or implement a plan, the agency may issue a "Safety and Soundness Order." The agencies issued on October 15, 1998 interim "Interagency Guidelines Establishing Standards for Safety and Soundness." See 12 CFR Part 30, Appendix A. Formal Agreements, Consent Orders, and Safety and Soundness Orders are public documents; Supervisory Directives, Commitment Letters, and Memoranda of Understanding are not.

they encounter by providing them with support from technical experts, including OCC information technology staff and outside consultants. The program includes the following elements:

- **Rapid Response Team-** The OCC has formed a rapid response team of information technology (IT) and contracted experts to help examiners who request assistance on a particular year-2000 examination. The team assists examiners in assessing testing processes in banks with complex operations.
- **Year-2000 Help Desk-** The OCC continues to support examiners through its year-2000 "help desk." Policy and operations staff, assisted by expert staff from the Information Technology Services unit, answer questions and assist examiners. OCC examiners ask questions by sending e-mails and faxes to our Year 2000 Supervision Policy and BIS examination support units. Answers to questions are posted on the OCC's internal year-2000 Web page.

*Environmental systems.* In an effort to assess progress in remediating environmental systems (elevators, HVAC, security, etc.), a team of OCC examiners developed environmental systems examinations procedures and then used these procedures to review the environmental systems of 30 national banks where OCC examiners are stationed. The examination procedures revealed several common concerns, including: missing project plan milestones, inconsistent designation of environmental systems as mission-critical, and inadequate reporting to senior management. We found that many banks were concentrating on remediation of their information technology systems and paying insufficient attention to environmental systems. The findings from the reviews are factored into the overall year-2000 assessment of each of these banks. The environmental systems reviews began in September 1998 and are scheduled for completion during the first quarter of 1999. Deficiencies identified during the environmental systems reviews generally have been addressed by the relevant banks. The OCC recently sent out the procedures to all national banks for use as a resource tool.

*Training.* The OCC has an extensive and ongoing training program. Initiatives completed or under way since the last report include:

- Additional formal training to approximately 600 examiners in January 1999 on how to assess testing results and business resumption contingency planning.
- Updates to a CD-ROM-based training tool. The CD has general information on the year-2000 problem, FFIEC guidance, and the OCC's supervisory activi-

ties. The year-2000 CD-ROM was sent in December 1998 to all national banks, OCC examiners, other FFIEC agencies, and a number of international regulators of financial institutions.

- Periodic conference calls to keep examiners apprised of the latest year-2000 developments, answer questions, and address year-2000 examination issues. The conference calls, which began in early September 1998, will be held periodically for as long as they are necessary. Field examiners, headquarters staff, and consultants participate in the calls.
- Staff conference training on year-2000 hot topics during February, March, and April 1999. In addition to an overview of the status of national banks' year-2000 readiness, the presentations will address customer awareness and enforcement tools. All field examiners are required to attend these presentations.

## **Recent FFIEC Guidance**

### **Q&A on Year 2000 Contingency Planning**

On December 11, 1998, the FFIEC released "Questions and Answers Concerning Year 2000 Contingency Planning." This guidance answers frequently asked questions of financial institutions. It describes a number of important issues related to effective contingency planning, including the factors that financial institutions should consider in developing business resumption contingency plans. In developing year-2000 business resumption contingency plans, the FFIEC Q&A document states that financial institutions should consider:

- Educating customers about the year-2000 problem in order to minimize unwarranted public alarm that could cause serious problems for financial institutions and their customers;
- Evaluating the cash demands of a financial institution's customers to determine whether it needs to arrange for additional cash reserves;
- Anticipating unusual funding needs in late 1999 and early 2000 arising, for example, from a surge in deposit outflows or loan demand;
- Ensuring that financial institution employees are trained to implement year-2000 business resumption contingency plans; and
- Validating the year-2000 business resumption contingency plan using an independent and qualified source.

The FFIEC expects financial institutions to substantially complete the four phases of the business resumption contingency planning process by June 30, 1999.

## **Customer Communication Outline**

On February 17, 1999, the OCC released Advisory Letter 99-02, "Year 2000 Customer Communication Outline." This guidance supplements previous FFIEC guidance on year-2000 customer awareness programs and encourages national banks to consider doing the following in future customer communications:

- Address customer concerns and expectations directly by underscoring that maintaining confidence in banking with the financial institution- now and after the year 2000- is a top priority;
- Explain that the financial institution is working hard to ensure that customers have access to their money and accurate account information;
- Remind depositors that the year-2000 date change will not affect their \$100,000 federal deposit insurance coverage;
- Describe the institution's comprehensive plan to address the year-2000 challenge, including remediation efforts and testing of internal and external systems; and
- Discuss contingency plans for resuming operations in the event of a year-2000 disruption.

The Customer Communication Outline also suggests that banks may want to provide information that is tailored to the needs and concerns of different types of customers. For example, when communicating with retail customers, banks may focus more on addressing deposit insurance, access to funds, and other specific customer concerns.

## **Safety and Soundness Standards**

In October 1998, the OCC, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of Thrift Supervision issued year-2000 guidelines establishing minimum standards for safety and soundness under Section 39 of the Federal Deposit Insurance Act (12 USC 1831p-1). The year-2000 safety and soundness guidelines are based on FFIEC year-2000 guidance on testing, contingency planning, customer risk, customer awareness, and the project management process. The guidelines distill certain essential requirements from these prior issuances and are fully consistent with those prior issuances. The guidelines were effective upon publication, but subject to a comment period which expired on December 14, 1998. The FFIEC agencies are in

the process of reviewing public comments received as of the end of December 1998 and soon will decide on the issuance of final guidelines.

Under Section 39, standards adopted as guidelines vest the banking agency with discretion to take rapid and effective action with respect to banks that violate the guidelines. Specifically, the agency can require a violating bank to provide an acceptable plan for becoming compliant with the guidelines. If a bank either fails to provide an acceptable plan or fails to implement that plan, the agency may issue a Safety and Soundness Order, which is immediately enforceable to the same extent as a Cease and Desist Order issued under 12 USC 1818. The section 39 safety and soundness guidelines and remedies are appropriate to deal with the year-2000 problem because Section 39 permits prompt and effective supervisory action. With the century date change rapidly approaching, the banking agencies may not have time to use conventional enforcement remedies under 12 USC 1818.

The guidelines describe certain essential steps that each national bank must take to ensure its mission-critical systems are year-2000 ready. Since the issuance of the guidelines, the OCC has used these guidelines and Section 39 remedies as the basis for our enforcement approach to national banks with year-2000 issues.

## **Outreach Efforts**

Through December 31, 1998, OCC representatives from the Washington headquarters office participated in 98 outreach meetings with various groups, including bankers, service providers, software vendors, and other representatives from the financial community. The OCC also has worked with other FFIEC agencies to train foreign bank supervisors. For example, the OCC trained regulators from 11 Latin American countries at a conference in Chile in early December. In conjunction with the other FFIEC agencies, we hold regular meetings to discuss year-2000 issues with representatives from the Bank Administration Institute, American Bankers Association, Independent Bankers Association of America, and other financial institutions trade associations. The OCC, through its six district offices, has sponsored outreach programs with community, mid-sized, and credit card banks within each district. In addition, district office management and staff have participated in over 130 outreach meetings around the country sponsored by the FFIEC and state bankers associations. To date, over 12,000 bankers have participated in meetings held in 38 states.

In addition, we are hosting four roundtable sessions in Chicago, San Francisco, Charlotte, and New York in February and March 1999. The meetings include year-2000 project managers from the largest 32 national banks, their

respective OCC examiners-in-charge, and BIS examiners, and representatives from the other FFIEC regulatory agencies. These meetings are designed to promote open dialogue between the bankers and examiners about current key topics surrounding year 2000.

## Major Risk Factors and Concerns

The following is a brief overview of three of the most significant risk factors facing the banking industry- public confidence, international, and infrastructure- and the OCC's efforts to address them.

### Public Confidence

As stated in previous reports, the OCC and the other federal financial regulators believe that educating bank customers about the year-2000 problem and the progress the industry is making to address the problem is critical to maintaining public confidence in the banking system.

To date, the OCC has observed that many bank customer awareness programs are focused primarily on answering customer questions, rather than proactively reaching out to customers with year-2000 information. We encourage banks to consider additional efforts such as providing informational brochures or other written disclosures in monthly or quarterly statements, establishing toll-free hot lines for customer inquiries, holding educational seminars, and posting year-2000 information on their Internet sites.

The more effective customer awareness programs we have seen include the following elements:

- Delivering a consistent message throughout the organization, with senior management commitment and involvement. This includes providing effective employee training to ensure that knowledgeable employees are available to answer customer questions.
- Working with other financial institutions and community and civic organizations to inform the general public. This has been done in a number of ways, including: meeting with community and civic groups, making information available through banker associations, working with the local media to ensure accurate reporting, and leveraging off educational efforts of state and national bank trade associations.

As year-2000 press coverage intensifies, the OCC and other financial institution regulators strive to ensure that the facts reported by the press are correct. For example, concern for accurate reporting on the year 2000 prompted the heads of the FFIEC agencies to write a letter to the editor of *USA Today* to correct misinformation about dif-

ferences in year-2000 preparedness among large and small banks (letter printed in 1/13/99 issue of *USA Today*).

The OCC has taken a number of steps to assist national banks in communicating with their customers on the year 2000. As discussed earlier, the OCC sent a CD-ROM to all national banks during the fourth quarter that provided an overview of year-2000 issues, a review of agency year-2000 supervisory guidance and a discussion of OCC year-2000 examination procedures. The OCC also provided national banks with a list of frequently asked questions and answers on the year 2000, which were based on questions received by the OCC from bank customers.

OCC officials continue to participate in industry conferences, OCC-sponsored outreach events, and to respond to inquiries from the industry and the media. The OCC stresses to banks that our public awareness efforts cannot be a substitute for their aggressive public outreach programs.

### International

*International year-2000 status.* Banking supervisors and financial institutions are focusing more attention on international year-2000 risks, including the interdependencies and cross-border linkages that exist in the global economy. Increased concern about the international year-2000 situation has prompted an unprecedented level of cooperation within the financial industry on coordinated testing plans, information sharing and contingency planning. Key collaborative public and private sector groups, such as the U.S. President's Council on Year 2000, the Joint Year 2000 Council, the Basle Committee, and the Global 2000 Coordinating Group, continue to stress the need for active central government leadership to solve the year-2000 problem.

Based on the OCC's examination activities and external coordination efforts with foreign bank regulators, the following is a summary of the status of international year-2000 efforts and risks:

- Good progress is being made on year-2000 preparations in a number of key industrialized countries. Countries which are meeting or exceeding international benchmarks for year-2000 remediation and testing share several common characteristics: strong central government leadership, aggressive remediation and testing milestones, good information exchange, and an active regulatory environment. Countries which are falling behind international year-2000 benchmarks generally lack one or more of these common characteristics. In most countries, the financial sector has taken the lead on national and international coordination. However, national infrastructure

and key utilities in many countries have not made as much progress as the financial sector on year-2000 preparations. A major factor behind this lagging progress is the absence of strong year-2000 central government efforts in many countries.

- The international energy sector presents the most significant concerns. With few exceptions, little information is available on the readiness of energy generation distribution systems in most countries. In addition, while the international telecommunication sector has increased its coordination of cross-border testing and information sharing in the past several months, telecommunication network readiness remains an area of concern in key parts of Europe, Latin America, and Asia. Further, the international maritime transportation sector generally lacks any credible international organizations to coordinate year-2000 readiness, and therefore, little is known about its level of year-2000 preparedness.
- There is a growing concern about whether there are adequate plans and resources to handle the year-2000 challenge in certain emerging economies of Latin America, Asia, and Eastern Europe. Better information-sharing on year-2000 remediation and testing results in these regions can contribute significantly to improving confidence that these regions are effectively meeting their year-2000 challenges. Conversely, a continued lack of adequate information disclosure may exacerbate negative perceptions in the marketplace about the ability of certain countries or markets to deal with the year-2000 problem.
- The collective macro-economic risk potential of business failures due to year-2000 disruptions in the small and medium sized enterprise (SME) sector is becoming an increased international concern. There is a need for governments to be more active in reaching out and educating the SME sector about the year-2000 challenge.

*OCC's international year-2000 activities.* The OCC continues to work actively with other bank supervisors through bilateral and multilateral discussions to develop year-2000 supervisory guidance for international financial market supervisors. The OCC is an active contributor to the Basle Committee on Banking Supervision and the Joint Year 2000 Council.<sup>4</sup> Through our participation in the Basle Committee's Year 2000 Task Force, the OCC has helped to focus international bank supervisors on the global significance of the year-2000 issue. For example, the OCC has helped to develop cross-border year-2000 coordination principles and examination procedures, guidance on year-2000 contingency planning for international bank supervisors, and an international survey on the preparedness of the banking systems in individual countries. The

OCC, in conjunction with other Task Force members, is assisting with regional bank supervisory workshops and round table meetings that focus on sharing supervisory best practices for dealing with the year-2000 problem.

As part of the OCC's ongoing efforts to assess international year-2000 risks to the national banking system, our Global Banking Division is collecting international year-2000 readiness information through outreach activities with foreign financial industry supervisors, and our examinations of internationally active national banks and federally licensed branches and agencies of foreign banks. In addition, several senior OCC examiners have visited foreign countries to assess the readiness of the overseas branches of our national banks and of major foreign banks and efforts being made by foreign bank supervisors. The information we are collecting aids the OCC's assessment of the year-2000 readiness of international financial systems, clearing and settlement systems, and infrastructure providers that could have an impact on the operations of U.S. banks, as well as the development of appropriate supervisory responses.

### **Infrastructure (Telecommunications/Power)**

Over the past quarter, national banks and Federal branches and agencies have continued to receive additional information on the year-2000 readiness efforts of telecommunications providers and power companies. Many institutions report that their telecommunications providers have advised them that they are making adequate progress toward remediating and testing their telecommunications networks. Power companies are starting to make more information available than they have provided in the past.

The OCC continues to remind financial institutions to gather information from, and assess year-2000 readiness efforts of, all mission-critical service providers, including telecommunications providers and power companies. As part of the Phase II Workprogram, OCC examiners will review progress of national banks' efforts to assess year-2000 readiness of infrastructure providers.

The OCC continues to be an active participant in the Financial Sector Group of the President's Council on Year 2000 Conversion. On behalf of the Council, the regulators are sponsoring a series of one day summit meetings on the year 2000 with representatives of financial sector trade

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<sup>4</sup> The Basle Committee formed the Year 2000 Task Force to facilitate information-sharing and year-2000 supervision policy coordination among bank supervisors. The Joint Year 2000 Council is a multilateral group of international financial market regulatory authorities that facilitates information sharing on regulatory and supervisory year-2000 strategies, develops contingency planning measures, and establishes links with national and international private sector organizations.



groups. On December 3, 1998, the FDIC and Federal Reserve sponsored a conference to address infrastructure issues, particularly those related to telecommunications and power companies. The speakers included John Koskinen, Chairman of the President's Council; Michael Powell, FCC Commissioner; Senator Robert Bennett, Chairman of the Senate Committee on Year 2000; and a representative of North American Electric Reliability Council (NERC). In addition, the summit featured panel discussions on power and telecommunications. On April 15, 1999, the OCC will co-sponsor with the OTS a one day year-2000 summit to address contingency planning and customer awareness. House Banking Committee Chairman James Leach is scheduled to be the keynote speaker.

In addition, the OCC participates in the monthly meetings of the Securities Industry Association Facilities Subgroup and disseminates information from these meetings to its examiners and to the other FFIEC agencies. The OCC also participates in the bi-weekly conference calls of the Bank Administration Institute's Facilities Subgroup to discuss infrastructure issues with participating bankers. Some of the issues discussed recently have included testing security systems, event/command center planning, disclosure legislation (along with the BAI Legal Subgroup), landlord/tenant issues, and testing with utilities.

## FFIEC Contingency Planning

The OCC chairs the FFIEC Contingency Planning Working Group, which was formed to address year-2000 systemic risk concerns. Nine subgroups began meeting in early October to prepare recommendations for possible interagency action to better manage and mitigate potential year-2000 risks. The following is a brief description of the nine subgroups to address liquidity, communications, infrastructure, key players, international payment systems, fraud, nonviable institutions, service providers and software vendors, and sharing resources:

- The liquidity subgroup is identifying potential systemic year-2000 liquidity issues and will be monitoring year-2000 risk that may be experienced in both the wholesale and retail markets.
- The communications subgroup is evaluating the agencies' communications strategies and plans relating to the year 2000 to determine where overlap exists and what efforts might be undertaken jointly. The group also has begun conducting market research to assess customer awareness of the year-2000 problem and to test reaction to potential regulatory public affairs messages.
- The infrastructure subgroup is working with other governmental agencies (e.g., the President's Council) and trade associations (e.g., Securities Industry

Association) to influence the activities of the infrastructure providers through interaction with infrastructure provider regulators, trade groups, and the providers themselves.

- The subgroup responsible for the evaluation of key players is finalizing an interagency framework for the evaluation of those financial services firms that participate most significantly in "strategic markets," that is, those markets in which even a temporary disruption could have significant implications to the broader capital markets. The OCC is conducting examinations of some of these institutions and sharing the information among the other FFIEC agencies. The objective of these evaluations is to provide timely assessments of national key players' preparedness within strategic markets so that the bank regulatory agencies may plan and prepare responses for potentially vulnerable areas.
- The international payment systems subgroup is developing strategies to facilitate information sharing regarding year-2000 preparedness in foreign countries among banking agencies, public and private sector groups, and market participants. The subgroup has developed an international year-2000 database that will help to identify potentially vulnerable areas that could impact the U.S. banking system. The subgroup will develop supervisory recommendations on how to respond to expected and unexpected contingencies with a focus on communication and coordination with domestic and international regulators, and private sector participants. The group is relying on the OCC's international database for international year-2000 readiness information. Information gathered through outreach activities with foreign financial industry supervisors and examinations of internationally active institutions will be used to monitor international payment system risk concerns.
- The fraud subgroup is discussing ways the year-2000 issue may expose financial institutions and their customers to fraud and is coordinating its activities with other government agencies, primarily federal law enforcement agencies. The fraud subgroup is considering whether to develop guidance on how to deal with potential fraud problems.
- The non-viable institutions subgroup is working to develop the legal basis to address or resolve non-viable institutions due to year-2000 risks. The subgroup is studying the feasibility of adopting a standard set of data that each institution or specific problem institutions would be required to maintain on back-up tapes. The subgroup is setting up procedures for interagency cooperation on clearing bidders to participate in the year-2000 resolution process and deciding how to select a winning bid.

The agencies also have formed a subgroup to share and coordinate ideas regarding support for viable institutions with year-2000 problems.

- The service providers and software vendors subgroup is addressing issues concerning the critical role of potential year-2000-related disruptions at significant service providers and software vendors that service multiple financial institutions. The group is monitoring the status of key service providers and software vendors; researching the conversion capacity of key service providers and software vendors; establishing a forum for discussing significant supervisory issues and concerns; and establishing guidelines for assessing year-2000 conversion risk.
- The resource sharing subgroup is working to identify agency resources and staff with the range of critical skills necessary to address potential problems and operational/funding issues arising from the year-2000-century date change. The subgroup also is developing the information, processes, and procedures necessary to allow each of the agencies to appropriately share resources in the context of year-2000 initiatives and/or problems.

## OCC Internal Remediation Efforts

### Overview of OCC's Internal Year-2000 Remediation Efforts

The OCC completed year-2000 renovation and validation of all mission-critical systems on November 30, 1998, well in advance of Treasury Department deadlines.

*Mission-critical IT systems.* The OCC identified 13 mission-critical information technology (IT) systems that support the key business functions of the agency.<sup>5</sup> See Table 3. One of the 13 is now retired (Trust Billing); the remaining 12 mission-critical IT systems have been renovated and validated as year-2000 compliant.

<sup>5</sup> The mission-critical systems are Consolidated Application System, Time and Travel Reporting System, Time Entry, General Financial System, Salary Allocation, Bank Assessment, Lockbox, Security Authorization, Budget Code Restructure, Corporate Activities Information System, Supervisory Monitoring System, National Bank Surveillance Video Display System, and Trust Billing.

**Table 3— OCC Year-2000 Remediation Schedule for Mission-Critical Systems**

System	Renovation	Validation	Implementation	IV&V	Certification	Contingency Plan	Trigger Date
CAS	✓	✓	✓ (04/25/98)	✓	✓ (11/12/98)	✓	1/3/2000
TTRS	✓	✓	✓ (07/28/98)	✓	✓ (11/09/98)	✓	1/3/2000
TE	✓	✓	✓ (03/20/98)	✓	✓ (11/20/98)	✓	1/3/2000
SA	✓	✓	✓ (02/28/98)	✓	✓ (10/22/98)	✓	1/5/2000
GFS	✓	✓	✓ (11/30/96)	✓	✓ (10/09/98)	✓	1/3/2000
BA	✓	✓	✓ (02/14/98)	✓	✓ (11/30/98)	✓	1/31/2000
LOCKBOX	✓	✓	✓ (02/19/98)	✓	✓ (10/09/98)	✓	1/3/2000
AZ	✓	✓	✓ (02/14/98)	✓	✓ (11/30/98)	✓	6/1/1999
BCR	✓	✓	✓ (07/24/98)	✓	✓ (11/30/98)	✓	1/3/2000
CAIS	✓	✓	✓ (11/22/98)	✓	✓ (11/30/98)	✓	1/1/2000
SMS	✓	✓	✓ (11/01/98)	✓	✓ (11/20/98)	✓	1/1/2000
NBSVDS	✓	✓	✓ (11/01/98)	✓	✓ (11/20/98)	✓	1/1/2000
Trust Billing	*	*	*	N/A	N/A	N/A	NA

\* Trust Billing was retired as of 10/31/98. Not necessary to make Y2K compliant.

✓ Completed, date in parentheses is actual completion date

The OCC's mission-critical IT systems exchange data with five external parties: the Federal Reserve, the Federal Deposit Insurance Corporation, the National Finance Center, Treasury, and the First National Bank of Chicago. All outgoing data exchanges were compliant by November 30, 1998 and have been tested by the OCC's exchange partners. All incoming data exchanges that were noncompliant were bridged and tested by the OCC by November 30, 1998. The OCC continues to work with its data exchange partners to ensure the compliance of critical external data exchanges.

*Non-mission-critical IT systems.* As of December 31, 1998, the OCC has 264 non-mission-critical IT systems, of which 19 required renovation. Of these 19 systems, 18 have been renovated, validated, and implemented as year-2000 compliant as of December 31, 1998. The remaining system is expected to be compliant by March 31, 1999.

*Non-IT mission-critical systems.* The OCC's Non-IT Year 2000 Program includes mission critical real property at primary sites (i.e., headquarters, data center, Ombudsman's office, district offices) and non-mission-critical real property at secondary sites (i.e., field offices). The program also includes non-mission critical equipment at primary and secondary sites.

The OCC continues to track the progress of all program management phases and is working toward certification at each primary site. Currently, the OCC is tracking the progress of 22 mission critical systems.<sup>6</sup> Of the mission critical systems identified, 15 systems are already compliant and seven systems remain non-compliant. Five of the non-compliant systems are scheduled for replacement while two are scheduled for repair. Based on the milestones established for renovation and validation phases, six sites, including OCC headquarters and data center, plan to complete all program management phases by the March 31, 1999 milestone. The remaining three primary sites, all of which contain leased systems, will not complete all program phases until the second or third quarter of 1999. The OCC will continue to work closely with those sites to ensure completion of all phases.

The OCC also tracks non-mission critical real property at all secondary sites. Follow-up at secondary sites is based on the current status and criticality of the site to the OCC. Additionally, the assessment of all non-mission critical personal property is under way. The assessment of personal property is scheduled for completion by March 31, 1999. At that time appropriate renovation and testing strategies will be defined.

## **OCC Business Continuity Plan**

The OCC contracted with KPMG to assist in the development of a revised Business Continuity Plan for the

OCC's internal systems. Business Continuity Planning at the OCC focuses on five core business processes and consists of a Business Impact Analysis (BIA) and a Business Continuity Plan (BCP). The core processes include: Bank Supervision Policies and Procedures, Strategic Planning and Systemic Risk Management, Individual Bank Supervision, Enforcement, and Corporate Activities. The scope of the BIA and BCP include and extend beyond year-2000 disruption scenarios. Specific efforts to develop and test contingency plans for year-2000 disruption scenarios have been completed in a parallel effort with the BCP. The OCC completed the BIA and a final draft of the BCP in December 1998. Implementation and testing of the BCP is ongoing and scheduled for completion by March 31, 1999.

BCP testing will include both desktop and controlled, real world simulations. Desktop testing will identify specific triggers, validate and clarify procedures, finalize a key recovery document inventory, finalize personnel contact information, and familiarize core process teams with their responsibilities regarding BCP. The controlled, real-world simulation will test the effectiveness of communications procedures and the core process team's ability to identify and prioritize work flow during a disruption.

## **OCC Contingency Planning and Testing**

OCC business unit representatives reviewed and updated system contingency plans in December 1998. All systems contingency plans will be reviewed again in June and November 1999 to determine if they are still operative and will sufficiently replace the automated system functions for a reasonable period. Business unit representatives, in collaboration with ITS staff, developed testing strategies and plans for each mission-critical system. Non-mission-critical systems with complex contingency plans and those with sufficient importance or size also have a testing strategy and plan. The contingency plan tests will be performed during January, July, and December 1999.

As an additional level of safety and to ensure that connected systems function properly, the OCC plans to complete simultaneous agency-wide tests. During March 1999, the OCC will conduct tests among multiple internal mission-critical systems, external parties, and infrastructure providers. We expect these tests, in addition to the tests we have done on individual or closely clustered systems, will ensure that the OCC's entire computing environment can operate properly in the next century.

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<sup>6</sup> The OCC reduced the originally reported number of non-IT mission-critical systems after more detailed analysis and testing of these systems determined they did not contain date-dependent functions.

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# Comptroller’s Report of Operations– 1998

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	<i>Page</i>
<b>Comptroller</b> .....	43
Internal Year 2000 Remediation .....	43
Information Technology Services Department .....	43
Chief Information Officer .....	43
Customer Services Division .....	44
Information Services Division .....	44
Network Services Division .....	44
<b>Executive Committee</b> .....	45
<b>Ombudsman</b> .....	47
<b>Bank Supervision Policy</b> .....	48
Asset Management Division .....	48
Bank Technology Division .....	48
Year 2000 Supervision Policy Division .....	49
Global Banking Division .....	49
Risk Evaluation Department .....	49
Treasury and Market Risk Division .....	50
Community and Consumer Policy Department .....	50
Core Policy Department .....	52
Core Policy Development Division .....	52
Capital Policy Division .....	52
Office of the Chief Accountant .....	53
Credit Risk Department .....	53
<b>Bank Supervision Operations</b> .....	54
Supervision Support Department .....	54
Special Projects and Programs Division .....	54
Quality Assurance Division .....	54
Special Supervision/Fraud Division .....	54
Supervisory Data Division .....	55
Large Bank Supervision Department .....	55
Compliance Operations Department .....	56
Continuing Education Department .....	56

<b>Office of the Chief Counsel</b> .....	57
Administrative and Internal Law Division .....	57
Bank Activities and Structure Division .....	57
Community and Consumer Law Division .....	58
Counselor for International Activities .....	59
Enforcement and Compliance Division .....	59
Legislative and Regulatory Activities Division .....	60
Litigation Division .....	62
Securities and Corporate Practices Division .....	64
Bank Organization and Structure Department .....	66
District/Large Bank Licensing Division .....	68
Licensing Policy and Systems Division .....	68
Washington-Directed Licensing Division .....	70
Community Development Division .....	77
<b>Economic and Policy Analysis</b> .....	79
Policy Analysis Division .....	79
Economics Department .....	79
Economic Analysis Division .....	79
Risk Analysis Division .....	79
<b>International Affairs</b> .....	80
International Banking and Finance Department .....	80
<b>Public Affairs</b> .....	81
Banking Relations Division .....	81
Congressional Liaison Division .....	81
Community Affairs Department .....	81
Community Relations Division .....	81
Minority and Urban Affairs Division .....	82
Public Affairs Department .....	83
Communications Division .....	83
Press Relations Division .....	84
<b>Administration and Chief Financial Officer</b> .....	85
Equal Employment Programs Division .....	85
Administration Department .....	85
Management Improvement Division .....	85
Human Resources Division .....	86
Organizational Effectiveness Division .....	86

Administrative Services Division .....	86
Financial Services Division .....	87

**Tables and Figure**

Table 1- Comptrollers of the Currency, 1863 to the present .....	89
Table 2- Senior Deputy and Deputy Comptrollers of the Currency, 1863 to the present .....	90
Figure 1- Office of the Comptroller of the Currency Organization Chart, as of December 1998.....	94



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# Comptroller's Report of Operations— 1998

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## **Comptroller**

The Comptroller's office manages a nationwide staff of bank examiners and other professional and support personnel who examine and supervise federally chartered national banks and federally licensed branches and agencies of foreign banks. As of December 31, 1998, there were about 2,460 national banks, representing about 28 percent of all insured commercial banks in the United States and 59 percent of the total assets of the banking system. During the year, national banks generated about 60 percent of the industry's earnings.

The Comptroller continued in 1998 to serve as a member of the board of the Federal Deposit Insurance Corporation (FDIC), a member of the Federal Financial Institutions Examination Council (FFIEC), and a member of the board of the Neighborhood Reinvestment Corporation (NRC).

Throughout the year, advice to the Comptroller was provided by the OCC's Executive Committee. The Comptroller's personal staff continued to direct, coordinate, and manage the day-to-day operations of the office; oversee projects of special interest to the Comptroller; and serve as liaison with OCC staff and the staffs of other regulatory agencies.

### **Internal Year 2000 Remediation**

The Year 2000 problem continues as one of the OCC's top priorities. An oversight committee, comprised of the OCC's most senior managers, coordinates the OCC's year-2000 (Y2K) strategy. The committee recognized the complexities of Y2K remediation efforts and the differences presented in our mission of addressing both external and internal issues. To most effectively deal with these differences, the OCC developed an external and internal structure. The external effort focuses on the year-2000 readiness of the bank and service providers we supervise. The internal program concentrates on remediation of the OCC's internal systems.

The OCC has been working to ensure internal systems are year-2000 compliant. The OCC identified 13 mission-critical informational technology (IT) systems that support the key business functions of the agency. As of November 30, 1998, the OCC retired one system and renovated and validated the remaining 12 mission critical systems, well in advance of Treasury Department deadlines. All non-mission critical systems will be tested and certified as compliant by March 31, 1999. The OCC's data exchange part-

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With special thanks to LaJuan Dickerson for her sustained excellence in preparing this report.

ners and telecommunication systems are also compliant. The OCC is also in process of testing its mission-critical contingency plans and will conduct a simultaneous agency-wide test in March 1999. The OCC continues to monitor progress toward completion of the renovation, validation, and implementation phases of non-IT systems at all nine primary sites as outlined in its Non-IT Project Management Plan. The OCC goal is to certify the compliance process at all nine primary sites by March 31, 1999.

## **Information Technology Services Department**

In 1998, Information Technology Services (ITS) continued its pursuit to become a government leader in providing information technology (IT) solutions. In February, a chief information officer (CIO) was selected. He has aligned ITS goals and resources that reflect a significant commitment to provide technology solutions for business objectives and increase our customer service satisfaction levels.

The CIO is a deputy comptroller and leads ITS. He reports directly to the Comptroller. As the senior IT official, the CIO works closely with executive management to identify the OCC's IT direction and implement systems that support the agency's strategic objectives. In addition, the CIO represents OCC at Treasury on all IT issues and plays a key role in ensuring closer technical cooperation with other federal financial regulators.

The CIO has an administrative staff and three divisions (Customer Services, Information Services, and Network Services) under his supervision. Each division's key responsibility is to provide technical support to all OCC personnel.

### **Chief Information Officer**

The Chief Information Officer (CIO) staff provides administrative support to the CIO and ITS divisions. A special projects manager reports directly to the CIO and is responsible for Security and OCC business unit IT liaison. The special assistant to the CIO has responsibility for the Policy, Planning and Quality Assurance team, administrative matters, and budget.

The staff's key roles include providing support for the Investment Review Board; coordination of the ITS home page; ITS contract coordination; IT budget planning; strategic planning; security; and development of policies, procedures and programs that result in quality technology application and superior customer service. In addition, the staff has Treasury liaison responsibilities.



During 1998, these teams supported the implementation of federal guidelines and effectively coordinated CIO responsibilities. The staff coordinated the design, development, and implementation of an IT capital planning and investment process and instituted project-based budgeting in ITS to better manage IT investments. These initiatives support OCC's continued commitment to the legislative mandates of Clinger-Cohen and the Government Performance and Results Act. The Security team established an intranet-based annual security awareness briefing and implemented new security measures at the PC and network levels.

## **Customer Services Division**

The Customer Services staff consists of IT service specialists with responsibilities for Washington and district IT services, help desk, and depot maintenance functions. The staff provides front-line customer support including troubleshooting, fulfilling equipment requests, planning, and making initial contacts on new systems needed to support the business function.

Major accomplishments in 1998 included the technology centers at the staff conferences. The 1998 centers offered increased capabilities, new products and specialized training. In addition, the division spearheaded the design, development, beta-testing, and pilot of a standard office suite for the agency. To meet the goal of improving customer satisfaction levels, customer service staffing presence was increased on every floor at headquarters and travel schedules to duty stations were increased for district customer service staff. The division also upgraded more than 1,000 notebook computers' modems to v.90 standard, increasing average connection speed from 22kb to 31kb.

## **Information Services Division**

The Information Services staff is responsible for providing automated solutions to customer needs and improving technical support for more than 100 technology applications. To achieve these goals, the staff is made up of teams for application development and maintenance; research and desktop configuration; Lotus Notes development; Internet, intranet, and extranet development and support; data warehouse; Year 2000; and Examiner View activities.

Major accomplishments in 1998 included the first complete year of operation of the OCCnet and the conversion

of the mainframe EMC2 conferences and bulletin boards to the intranet. In addition, IS completed remediation of all mission and non-mission critical systems for Y2K compliance; increased standardization of our desktop configuration; continued development and support of Lotus Notes systems and tracking databases; and piloting Examiner View, a new automated exam process.

Information Services made new technologies to the OCC for more effective and efficient access and reporting of data. The first Data Mart of the Enterprise Data Warehouse was completed and implemented. The division also addresses the continuing need for more efficient OCC network access by designing and implementing a Web-based electronic mail system and new dial-up manager for remote customers.

## **Network Services Division**

The Network Services division is responsible for database operations, LAN/WAN, mainframe operation and support, and telecommunications services. The division is located at OCC's Centre Point facility in Landover, Maryland.

The division provides 7-days-a-week, 24-hours-a-day network and mainframe support and maintenance, as well as disaster recovery to allow for complete restoration of computer services within 24 hours if a major disruption or disaster strikes.

During 1998, Network Services instituted new processes that ensure OCC employees have timely and reliable access to OCC's information technology systems and automated data sources. In order to accomplish this goal, ITS installed 60 new database servers at Landover to create a new production environment in one area and allow for 24-hours/7-days-a-week monitoring, uninterrupted power, disaster recovery, agency-wide standardization, and physical security.

Network Services also began the agency-wide operating system conversion from Banyan Vines to Microsoft NT by converting the headquarters building and four district offices. They instituted a new program to install data lines in community banks during examinations. In addition, Web-enabled electronic mail was developed and distributed, and high-speed modem pools were installed to facilitate dial-in access and reduce connection drops by 30 percent.

## ***Executive Committee***

As of December 31, 1998, the OCC's Executive Committee consisted of the Comptroller, the chief of staff, the ombudsman, the senior deputy comptroller for Bank Supervision Policy, the senior deputy comptroller for Bank Supervision Operations, the chief counsel, the senior deputy comptroller for Economic and Policy Analysis, the senior deputy comptroller for International Affairs, the senior deputy comptroller for Public Affairs, and the senior deputy comptroller for Administration and chief financial officer. Members of the Executive Committee provide advice and counsel to the Comptroller in managing the operation of the agency, and the Committee approves policy project initiatives and the associated use of agency resources.

### **Ombudsman**

The ombudsman is responsible for overseeing the national bank appeals process and consumer complaints received from customers of national banks. The ombudsman also acts as liaison between the OCC and anyone with unresolved problems in dealing with the OCC regarding its regulatory activities. In April 1998, the Customer Assistance Group was realigned to the ombudsman's office.

### **Senior Deputy Comptroller for Bank Supervision Policy**

The senior deputy comptroller for Bank Supervision Policy is responsible for formulating and disseminating the OCC's supervision policies to promote national banks' safety and soundness and compliance with laws and regulations. The department issues policy, guidance, and examination procedures related to national banks' asset management, bank technology, capital markets, commercial, and consumer and community compliance activities. The department serves as the OCC's focal point for developing supervisory policies and programs for monitoring and assessing national banks' year-2000 readiness and also coordinates the OCC's international year-2000 efforts. The department also assists in providing specialized training and examination support to OCC examiners. The senior deputy comptroller for Bank Supervision Policy is responsible for coordinating OCC participation in Federal Financial Institutions Examination Council (FFIEC) activities and its task forces

### **Senior Deputy Comptroller for Bank Supervision Operations**

The senior deputy comptroller for Bank Supervision Operations is responsible for examinations and other super-

vision activities in the OCC's six districts; the Large Bank Supervision Department, which supervises the largest national banks and oversees operations in the OCC's London office; and OCC's Compliance Operations, Continuing Education, and Supervision Support departments. Specific responsibilities of the senior deputy comptroller for Bank Supervision Operations included directing programs for the examination and regulation of national banks to promote the continuing existence of a solvent and competitive national banking system. The senior deputy comptroller for Bank Supervision Operations was responsible during 1998 for directing the examination, supervision, and analysis of about 2,460 national banks and about 60 federal branches and agencies of foreign banks in the United States accounting for about 59 percent of the nation's banking assets. Supervision of national trust companies, and the international activities of national banks with global operations, and year-2000 examination activities were also the responsibility of the senior deputy comptroller for Bank Supervision Operations.

### **Chief Counsel**

In 1998, the chief counsel continued the function of advising the Comptroller on legal matters arising from the administration of laws, rulings, and regulations governing national banks. The chief counsel was responsible for directing the legal functions in and for the OCC, including writing and interpreting legislation; responding to requests for interpretations of statutes, regulations, and rulings; defending the Comptroller's actions challenged in administrative and judicial proceedings; supporting the bank supervisory efforts of the office; and representing the OCC in all legal matters. These duties were carried out through two deputy chief counsels. One deputy counsel was responsible for overseeing Bank Activities and Structure, Enforcement and Compliance, Litigation, Securities and Corporate Practices, and the six district counsels; and the other was responsible for Administrative and Internal Law, Community and Consumer Law, the Counselor for International Activities, and Legislative and Regulatory Activities.

The chief counsel, in 1998, also advised the Comptroller on policy matters involving corporate activities and had responsibility for overseeing the OCC's corporate activities area. The Comptroller delegated authority for deciding all corporate applications, including charters, mergers and acquisitions, conversions, and operating subsidiaries of national banks, to the chief counsel. These responsibilities were carried out through the deputy comptroller for Bank Organization and Structure, the District/Large Bank Licensing Division, the Licensing Policy and Systems Division, the Washington-Directed Licensing Operations Division, and the licensing units in each of the OCC's six district offices.

In addition, in 1998, the chief counsel advised the Comptroller on policy matters involving community development. The Comptroller delegated authority for deciding national bank community development investment proposals to the chief counsel that are carried out through the director for Community Development. In addition, the chief counsel oversaw Community Development's other activities, including policy development and research, banker and community development partner education initiatives, community development training for examiners and others, provision of advice and counsel to the Comptroller in his or her capacity as a statutory member of the Neighborhood Reinvestment Corporation's board of directors, and publication of the newsletter *Community Developments*.

### **Senior Deputy Comptroller for Economic and Policy Analysis**

The senior deputy comptroller for Economic and Policy Analysis is responsible for managing the agency's economic research and analysis program, providing policy advice on issues relating to the condition of the banking industry and trends in the provision of financial services, and overseeing preparation of congressional testimony for the Comptroller. The senior deputy comptroller for Economic and Policy Analysis also assisted the Comptroller in his responsibilities to coordinate the Treasury Department's efforts in electronic money and banking. These activities were carried out through the Policy Analysis Division and the Economic Analysis and Risk Analysis divisions of the Economics Department.

### **Senior Deputy Comptroller for International Affairs**

In 1998, the senior deputy comptroller for International Affairs is responsible for OCC's international activities, including providing policy advice and technical expertise and analyses to OCC and the Treasury Department on international banking and financial matters, including G-7 summit issues; formulating policies and procedures for the supervision and examination of federal branches and agencies of foreign banks; serving as liaison with foreign bank supervisors and various multilateral groups; and providing analysis of country risk and other internationally related issues. These responsibilities were conducted in the International Banking and Finance Department. The senior deputy comptroller represents the OCC on the Basle Committee on Banking Supervision and the Joint Forum on Financial Conglomerates.

### **Senior Deputy Comptroller for Public Affairs**

The senior deputy comptroller for Public Affairs advises the Comptroller on external relations with the news media, the banking industry, Congress, consumer and community organizations, other government agencies, and the public.

Specific responsibilities include the following: overseeing regular outreach efforts to foster and develop relationships with the constituencies involved in banking; tracking legislative developments and responding to congressional inquiries and requests for support; directing the preparation and dissemination of information to help bankers, examiners, community organizations, and the general public understand the national banking system, the OCC's supervisory activities, and related issues; ensuring fair and easy access to the agency's public information; coordinating internal communications; and managing news media relations for the agency.

The senior deputy comptroller for Public Affairs carries out these responsibilities through the Banking Relations and the Congressional Liaison divisions, the historian, deputy comptroller for Public Affairs, and the deputy comptroller for Community Affairs.

### **Senior Deputy Comptroller for Administration and Chief Financial Officer**

In 1998, the senior deputy comptroller for Administration and chief financial officer was responsible for the efficient and effective administrative functioning of the OCC. The newly established deputy comptroller for Administration supervised the Human Resources, Administrative Services, Financial Services, Management Improvement, and Organizational Effectiveness divisions. This new deputy comptroller position was established to streamline Administration's management structure and to encourage greater teamwork in Administration's cross-functional areas. Washington office units provided staff assistance and guidance to district administrative functions. Administration also has the following two important ongoing projects: 1) administrative systems and non-information technology year 2000 efforts, and 2) the total compensation study.

The senior deputy comptroller for Administration was also designated by the Comptroller to administer the OCC's equal employment programs.

## ***Ombudsman***

In 1998, the ombudsman was responsible for overseeing the national bank appeals process and consumer complaints received from customers of national banks. The primary ongoing activities of the national bank appeals process included resolution of individual appeals from national banks, administration of the examination questionnaire process, and outreach activities. With the consent of the Comptroller, the ombudsman has the discretion to supersede any agency decision or action during the resolution of an appealable matter. The ombudsman often acted as a catalyst to spawn reviews of agency poli-

cies, processes and procedures as a result of issues identified through his activities. The ombudsman also acted as liaison between the OCC and anyone with unresolved problems in dealing with the OCC regarding its regulatory activities. The ombudsman functions independently, outside of the bank supervision and examination area, and reports directly to the Comptroller. The Customer Assistance Group was realigned to the ombudsman's office in April 1998. Executive Committee approved enhancements to the previous process. The new process includes a significantly improved telephone system, which is consistent with best in class call centers, along with a state-of-the-art case management system designed to provide assistance at the point of contact.

# **Bank Supervision Policy**

The senior deputy comptroller for Bank Supervision Policy is responsible for formulating and disseminating the OCC's supervision policies to promote national banks' safety and soundness and compliance with laws and regulations. The department issues policy, guidance, and examination procedures related to national banks' asset management, bank technology, capital markets, commercial, and consumer and community compliance activities. The department serves as the OCC's focal point for developing supervisory policies and programs for monitoring and assessing national banks' year-2000 readiness and also coordinates the OCC's international year-2000 efforts. The department also assists in providing specialized training and examination support to OCC examiners. The senior deputy comptroller for Bank Supervision Policy is responsible for coordinating OCC participation in Federal Financial Institutions Examination Council (FFIEC) activities and its task forces.

## **Asset Management Division**

The Asset Management Division is the focal point for the development of OCC policy as it relates to national banks' asset management services. Financial services included under the umbrella of asset management are securities brokerage, the retail sale of non-deposit products, fiduciary services, investment advisory services, and retirement services.

During 1998, the division completed several products designed to bring the examination of asset management services under the OCC's risk based supervisory approach. The division issued the Community Bank Fiduciary Activities Supervision Handbook. This is the first in a series of asset management handbooks. The Asset Management Division strongly influenced a revision of the FFIEC's Uniform Interagency Trust Rating System effective January 1, 1999. The Asset Management Division was the primary author of Year 2000 Guidance on Fiduciary Services issued on September 2, 1998. In addition, the division was active in developing information the OCC uses to monitor bank proprietary mutual fund performance. With the OCC's Economics Department, the division sponsored a review of the 401(K) business offered in large national banks. The division also worked closely with the Treasury and Market Risk Division to develop a survey on the euro and prepared a comprehensive report on the effect of European Monetary Union conversion on U.S. banks addressed in the survey.

The Asset Management staff participated in approximately 20 industry meetings and seminars throughout the year. In the first quarter of 1998, the division conducted Investment

Advisor Risk Management training for 25 OCC district and large bank examiners. Also in the first quarter and again in the second quarter, the division sponsored a Fiduciary Round Table for 25-30 district and large bank examiners. In November, the division sponsored the OCC's annual Asset Management meeting attended by over 100 district and large bank examiners. Asset Management continues to communicate industry news to asset management examiners by periodically issuing the Asset Management Digest and maintaining the Asset Management intranet site. All staff members participated in asset management examinations of national banks, resolved consumer complaints, and responded to many inquiries from bankers.

## **Bank Technology Division**

The mission of the Bank Technology division is to provide leadership and support to position the OCC to effectively supervise the use of technology in the national banking system. The strategies the unit is employing to achieve this mission are researching specific technologies, enhancing examiner education, and reinventing the technology supervision process.

Projects in the division include development of policies for digital signatures, cyber-terrorism and infrastructure threats, national banks as Internet service providers, and PC banking. Bank Technology is publishing guidance on the first three consistent with previous publications on "Technology Risk Management" (OCC Bulletin 98-3) and "Technology Risk Management: PC Banking" (OCC Bulletin 98-38). The division is also preparing a section of the *Comptroller's Handbook* on PC banking.

The division's examiner education efforts include participating with the FFIEC in providing an information systems and technology conference for all information systems examiners. This conference provides an overview of various technology issues impacting the examination process. The division also provides a bank technology conference for all OCC information systems examiners. This conference provides in-depth training on specific technologies employed in the national banking system. In addition, the unit sponsors a certified information systems auditor review course for all OCC examiners interested in obtaining this industry certification.

A major effort of Bank Technology over the next two to three years is a reinvention of the supervision of technology in the national banking system. The goals of this project are to ensure that:

- Technology risks are well understood.
- Technology risks are fully integrated into the OCC supervision by risk process.

- Examiners have the tools and knowledge to effectively assess the quantity of technology risk and quality of risk management in the institutions the OCC supervises.

Objectives of this project include:

- Expanding risk definitions to include technology in all nine risk areas.
- Integrating Information Systems examiners with commercial examination teams.
- Developing integrated examination objectives and risk identification processes.
- Training all examiners in technology risk.

## **Year 2000 Supervision Policy Division**

The Year 2000 Supervision Policy Division is responsible for developing OCC's policies and guidance to bankers and examiners on year-2000 remediation efforts. The division works closely with the other FFIEC-member agencies to provide timely guidance, training, examination procedures, and examination support on year-2000 issues. The division also participates in the Financial Sector Group of the President's Council on Year 2000 Conversion.

During 1998, the division assisted the FFIEC in developing and issuing guidance on:

- Assessing year-2000-related risks associated with service providers, software vendors, and institutions' customers;
- Testing for year-2000 readiness and establishing key milestones that must be met to prepare for the date change;
- Evaluating potential risks associated with institutions' fiduciary services;
- Developing contingency plans to mitigate potential risks; and
- Responding to customer inquiries about the year-2000 date change.

The division also helped to develop the FFIEC's Phase II Work Program and implemented training for more than 600 OCC examiners on the Phase II procedures. These procedures guide examiners in evaluating the progress financial institutions are making in preparing for the year-2000 date change.

In addition to these interagency efforts, the division assisted the OCC's Continuing Education department to

develop a Y2K CD-ROM based-training tool that was sent to all OCC examiners and national banks. The CD provides general information on the year-2000 problem, FFIEC guidance, and the OCC's supervisory activities. The division also prepares quarterly reports to Congress, national banks, and OCC examiners on Y2K efforts and progress, and conducts numerous industry outreach efforts.

## **Global Banking Division**

The Global Banking Division was created in 1998 to serve as the focal point for the OCC's supervisory policy efforts relating to emerging global risks, including supervisory concerns relating to risks emanating from the year-2000 problem. Global Banking identifies and assesses emerging international risk and activities and provides appropriate policy direction and responses. In addition, the Global Banking Division serves as an OCC liaison with other U.S. bank supervisory agencies and foreign financial industry regulator regarding global bank supervisory issues.

Global Banking is currently coordinating the OCC's external coordination and representation efforts with both the U.S. and international financial regulatory communities regarding international year-2000 supervisory issues. The division's staff represent the OCC on the Basle Committee for Bank Supervision's Year 2000 Task Force and also actively coordinate with the President's Council on Year 2000 Conversion's International Working Group, the Global 2000 Coordinating Group and other international bodies that are focusing on the year-2000 challenge. The division also collects and maintains information and analysis relative to global year-2000 preparedness and associated risks.

## **Risk Evaluation Department**

The deputy comptroller for Risk Evaluation chairs the OCC's National Risk Committee (NRC) and oversees the OCC's Treasury and Market Risk Division. The NRC identifies primary and emerging risks to the national banking system, stays abreast of evolving business practices and financial market issues, informs the OCC's Executive Committee of material risks facing the national banking system, and makes recommendations as to appropriate supervisory responses. The NRC also coordinates national and district risk committee initiatives and facilitates communication of risk issues and OCC supervisory efforts to address those issues.

The Risk Evaluation Department is responsible for supporting NRC initiatives. In 1998, Risk Evaluation:

- Refined a radar screen of issues that present risk to the safety and soundness of the national banking system.

- Conducted monthly briefings to inform the OCC's Executive Committee of material risks facing the national banking system; made recommendations as to appropriate supervisory responses; and monitored and reported on OCC's supervisory efforts to respond to those risks. Major issues addressed by the NRC during 1998 included: OCC expertise, development of modernized credit risk management practices, year 2000, the impact of the Asian crisis, Russian default, Long-Term Capital Management hedge fund near-collapse, and the introduction of the European Monetary Union (EMU).
- Served on working groups that developed supervisory policies to address market turbulence, EMU guidance to examiners, and assisted with several studies conducted for the President's Working Group on Financial Markets.

## **Treasury and Market Risk Division**

The Treasury and Market Risk (T&MR) Division is responsible for the OCC's supervisory efforts relating to asset/liability management, trading and dealing activities, securitization, mortgage banking, derivatives and emerging market products. The division identifies and addresses supervisory issues regarding national bank capital markets activities and provides policy direction as well as examination guidance through issuances and handbook sections. Treasury and Market Risk also publishes a quarterly report which highlights trends and risk levels regarding derivatives activities in the U.S. banking system.

During 1998, the division was a major contributor to numerous capital markets and risk management projects, including:

- Asian crisis monitoring.
- President's Working Group Study on Over-the-Counter (OTC) Derivatives.
- Bank derivatives activities.
- President's Working Group and Basle Committee Hedge Fund Studies.
- European Monetary Unit Examiner Guidance.
- FFIEC Y2K Liquidity Subgroup.
- Basle Committee's Models Task Force and Credit Modeling.
- Interagency Policy Statement on Investment Securities and End-User Derivatives Activities.

In 1998, T&MR administered the Capital Markets Training Program for 150 examiners who primarily perform capital

markets supervision work. For this group of examiners, T&MR sponsored special training seminars covering topics such as: validating interest rate risk measurement systems, mathematics for financial risk management, nonmaturity deposits, bank dealer activities, and products handled by the foreign exchange, fixed income, swaps, futures, and options markets.

The division also collaborated with the OCC's Continuing Education division on the Capital Markets Curriculum project. In this project, T&MR conducted Treasury Management Schools for examiners who were not capital markets specialists, made available training software (Capital Markets 101, Risk Management 101, and Bond Math) to examiners, and continued its efforts to restructure the OCC's capital markets training curriculum for all OCC examiners.

Other major 1998 T&MR training initiatives included upgrading OCC-wide understanding of asset securitization, developing advanced understanding of credit derivatives, refining management information capabilities, and ensuring that both banks and OCC staff are aware of structural changes in bank funding.

Additionally, T&MR provided substantial staff assistance to the field by participating in onsite examinations of interest rate risk, liquidity, trading, credit derivatives, mortgage banking, and securitization activities.

## **Community and Consumer Policy Department**

The Community and Consumer Policy Division (C&CP) is responsible for establishing and maintaining supervision and examination policies and procedures governing community reinvestment and development, fair lending, Bank Secrecy Act (BSA) reporting and record keeping, anti-money-laundering (AML), and consumer protection.

### **Community Reinvestment Act**

In 1998, the OCC, along with the other federal financial institution regulators launched a joint review of each agency's CRA performance evaluations for those large institutions that had been examined and rated under the revised CRA regulation. The purpose of the review was to determine where the agencies might be inconsistent in their implementation of the revised regulation. Also, in 1998, the OCC tested a CRA examination strategy for several large banks with multi-state operations using regional teams of experienced compliance examiners. The purpose of the project was to ensure that the OCC's examinations of large banks produce results that are more consistent across the entire population of large banks and provide evaluations that

are more useful to banks and the public. Enhancements to policies and procedures are being implemented as a result of these activities.

## **Community Reinvestment and Development Specialists**

The Community Reinvestment and Development (CRD) program has two specialists assigned to each of the OCC's six districts reporting to the CRD manager in Washington. They are available to provide advice to examiners and other OCC staff on community development topics and trends. They assist banks and their community development partners in pursuing the development goals of local communities. The program also has a coordinator who is the primary liaison to the Large Bank Supervision and Bank Organization and Structure departments. During 1998 the CRD staff:

- Participated in a number of activities on an inter-agency basis such as community development investment forums, the sovereign lending task force with the affiliated Indian tribes in the Northwest, and affordable housing roundtables.
- Provided training to OCC staff and various external groups at several forums throughout the year.
- Advised over seventy banks in the formation of their community development (CD) corporations and with their investments in small business investment companies and CD projects and securities. In addition, the CRD staff provided technical assistance to bankers and their community partners on ways to increase CD lending, investments and services.
- Assisted the OCC's examination and corporate application processes by providing information about opportunities and trends in CD topics. In addition, CRD staff collaborated with licensing and supervisory staff in planning and conducting Waters Amendment meetings in Memphis, Tennessee; Dumfries, Virginia; and Baltimore, Maryland, to discuss alternative financial services in low- and moderate-income communities where a branch of an interstate bank was closed.

## **Fair Lending**

As a result of fair lending examinations conducted in 1998, the OCC made five referrals to the Department of Justice of pattern or practice violations of ECOA. In addition, in accordance with the OCC's memorandum of understanding with the U.S. Department of Housing and Urban Development (HUD), six complaints involving potential Fair Housing Act violations were referred to HUD in the first

few months of the year, prior to this function being transferred to the Office of the Ombudsman.

In order to increase the uniformity of fair lending examinations for different types of financial institutions, the OCC and the other members of the Federal Financial Institutions Examination Council (FFIEC) developed core, inter-agency fair lending examination procedures. The procedures were approved by the FFIEC on December 4, 1998.

## **Bank Secrecy Act and Anti-Money-Laundering**

The Currency and Foreign Transaction Reporting Act, also known as the Bank Secrecy Act (BSA), requires financial institutions to file certain currency and monetary instrument reports, file suspicious activity reports, and maintain records for possible use in criminal, tax, and regulatory proceedings.

During 1998, the OCC's National Anti-Money Laundering Group (NAMLG), which is administered by the Community and Consumer Policy Department (C&CP), sponsored a number of projects. They:

- Expanded examinations of several banks identified as being at a higher risk for money laundering.
- Coordinated anti-money-laundering examinations of several overseas offices of large national banks.
- Along with the other federal banking agencies, published a proposed "Know Your Customer" regulation.
- Formed AML groups in each district office.

The C&CP department also provided AML training at OCC and industry conferences. Finally, C&CP developed an outreach presentation for use with bankers, and it continued to lead the effort to develop an interagency examiner AML training course.

## **Consumer Protection**

The Community and Consumer Policy Department issued a number of bulletins and advisories in 1998. Some of the more substantive bulletins include:

- A revised interagency policy statement on the administrative enforcement (Restitution Policy) of the Truth in Lending Act (TILA) to reflect statutory changes made to the TILA in 1995 and 1996.
- Interagency guidance on the consumer regulatory implications of emerging electronic banking technologies.



- Guidance on the rights and responsibilities of national banks under the Fair Credit Reporting Act for sharing consumer information with affiliated companies.
- An advisory to alert banks that some mortgage servicers were not making timely disbursements from consumers' escrow accounts in accordance with rules governing the Real Estate Settlement Procedures Act.
- An updated, Windows-based version of the OCC's annual percentage rate (APR) computer program and an updated version of the annual percentage yield (APY) computer program: APRWIN, version 5.0, verifies the accuracy of APRs, finance charges, and reimbursement adjustments; and APY, version 1.02, verifies the accuracy of APYs. Before their release, both programs were tested and found to be year-2000 compliant.

## Core Policy Department

The Core Policy Department is the focal point for the OCC's core policy platforms that govern how the OCC supervises banks. These core policies and activities include the OCC's supervision by risk philosophy and its supporting systems and core examination procedures for large and community banks; policies related to general bank management and boards of directors; policies and interpretations on capital, dividends, earnings, and related bank structure issues; and accounting, reporting, and disclosure requirements for national banks. The deputy comptroller for Core Policy chairs the Supervision Policy and Capital Steering committees, forums for obtaining input on supervision policy and capital issues across functional areas of the OCC.

The department consists of three parts: Core Policy Development Division, Capital Policy Division, and the Office of the Chief Accountant.

### Core Policy Development Division

Core Policy Development Division establishes risk-focused policies and standards for the supervision of national banks. The group administers the supervision by risk process; develops and coordinates OCC supervision policy issuances and publications; and develops and distributes automated tools and models used in the examination process.

During 1998, Core Policy Development completed the re-engineering of the community and large bank supervision examination standards. Specifically, a three-level supervision process was established, consisting of core knowledge, core assessment, and optional procedures for specific bank activity. The benefits of this effort include: the

enhancement of bank safety and soundness through greater integration of supervision by risk into the examination process; a more efficient deployment of OCC resources, while continuing to minimize industry burden; and increased efficiency and consistency through use of a risk-based examination approach. To further support the risk-based supervision process, Core Policy Development issued new guidelines in 1998 for Internal Controls and Sampling Methodologies.

Other significant issues addressed by Core Policy Development in 1998 include: the continuing development and enhancement of computerized models used by examiners in their daily examination activities; development of updated guidance for the bank supervision process; and participation in the development of the forthcoming automated examination application known as Examiner View.

### Capital Policy Division

Capital Policy identifies issues and develops policies to address risks to bank capital. This includes developing and maintaining capital regulations and interpretations as well as dividend, income, and expense policies, often in collaboration with other units of the OCC as well as other U.S. and international regulatory agencies. This unit ensures that capital policies are effectively communicated and implemented and provides technical assistance to examiners, bankers, and advisors on risk-based capital issues. It also represents the OCC on the Capital Group of the Basle Committee on Banking Supervision (Basle Committee) and participates in the Basle Committee's Models Task Force. The Capital Policy Division coordinates the work of the OCC's Capital Steering Committee.

In 1998, the division was instrumental in advancing several interagency changes in the risk-based capital regulations. A final rule adopted in 1998 increased the amount of servicing assets and purchased credit card relationships that banks may include in regulatory capital. The change made the regulatory capital treatment of those assets consistent with accounting standards prescribed by the Financial Accounting Standards Board. Another change made to the risk-based capital regulations during the year permits national banks to include in regulatory capital a portion of pretax net unrealized holding gains on equity securities held as available-for-sale. Additionally, the OCC, in conjunction with the other banking and thrift agencies, issued interim guidance in 1998 on the regulatory reporting and capital treatment for derivatives. The guidance describes the risk-based capital treatment for derivatives that are to be reported on bank balance sheets as a result of a change in generally accepted accounting principles.

## Office of the Chief Accountant

The Office of the Chief Accountant coordinates accounting and financial reporting issues, interprets and develops guidance on generally accepted accounting principles related to banks, and identifies emerging accounting issues. Training is provided to examiners and others as necessary. This office's objectives are accomplished through a headquarters and district accountant staff. Through representation on the FFIEC's Task Force on Reports, the office coordinates all changes and instructions for interagency bank reports, such as the Consolidated Reports of Condition and Income (call report). In addition, the accounting staff develops and interprets instructions to the call report. The office also participates on the Basle Committee's Accounting Task Force and Transparency Group to seek harmonization of international accounting standards and improved market disclosures. The financial information requirements of the Securities Exchange Act of 1933, as it applies to national banks under 12 CFR 11 and 12 CFR 16, also are administered by the office.

In 1998, the office coordinated and participated in policy issues regarding the development of an interagency statement with the SEC on loan loss reserves. The office also provided assistance on issues involving nonbanking operating subsidiaries and other bank supervision issues including enhancing transparency of public disclosure. In addition, the office participated on interagency issues regarding a rule for servicing rights assets resulting from issuance of Financial Accounting Standard (FAS) 125 and a statement on intercompany tax allocation. The office also continues to lead the interagency efforts to revise the call report in a manner consistent with a bank's public reporting to reduce burden.

During 1998, examiner guidance was provided on a loan loss reserve application to Y2K credit issues and assessing materiality of errors in financial statement reporting. Staff also provided accounting assistance on troubled debt restructures associated with Asian and other world debt problems and onsite examiner assistance.

## Credit Risk Department

The Credit Risk Department is responsible for identifying and analyzing emerging issues and trends that affect bank lending activities and for developing policy guidance to address these issues. The department sponsors the Retail Credit Committee and the National Credit Committee,

which have representatives from the OCC's districts, Large Bank Supervision, Economics, and Community Development. These committees assist the department in identifying emerging credit risks and supporting policy development initiatives. The National Credit Committee also conducts the annual OCC Survey of Credit Underwriting Practices to determine systemic credit risk trends.

During 1998, the department launched the Retail Credit Program. This program is designed to develop examiner skills by providing specialized retail credit training, ensure consistent supervision of retail lending risks, and provide retail policy guidance to bankers and examiners. The retail group developed procedures for, and supervised the examination of, several sub-prime banks culminating in the development of guidance on sub-prime lending. The group continued to support the interagency "Uniform Retail Credit Classification Policy" to be published in February 1999.

Guidance to bankers and examiners was provided through revisions of the "Lease Financing," "Loan Portfolio Management" (LPM), and "Agricultural Lending" booklets in the *Comptroller's Handbook*. The LPM booklet provided comprehensive guidance regarding the advancement of portfolio risk management practices. The department worked with Bank Supervision Operations, to develop examiner guidance regarding loans with structural weaknesses. The department also developed guidance about Y2K customer risk, which was issued on an interagency basis.

During 1998, Credit Risk expanded its risk analysis and identification initiatives. This work included the development of retail credit information systems and the review and testing of several portfolio management models.

The Credit Risk Department identifies training needs for field staff and formulates the appropriate training. In 1998, the department conducted the annual OCC Credit Risk Conference, two sessions of Specialized Retail Credit Training in Credit Scoring and Statistics, and began the Loan Portfolio Management Training, which continues into 1999. Presentations by management and the staff were made to groups such as Robert Morris Associates, Independent Bankers Association of America, American Bankers Association, Mortgage Bankers Association, and the Chief Appraisers Roundtable. The department also concluded their assistance to the National Bank of Poland in developing an off-site surveillance system in 1998.

# **Bank Supervision Operations**

The primary role of Bank Supervision Operations is direct supervision of national banks, federal branches and agencies, and national trust companies. During 1998, the OCC committed substantial resources for year-2000 preparedness. Over 500 examiners received specialized training to ensure adequate knowledge and skills to access banks' testing activities, and over 4,437 year-2000 examinations were conducted. To ensure the safety and soundness of banks, the OCC conducted another 1,723 examinations. More detailed information regarding OCC's direct supervision and historical trends is available in various other sections of this issuance.

## **Supervision Support Department**

The primary role of the Supervision Support Department is to support other Bank Supervision Operations divisions, including field examiners. The Supervision Support Department includes four distinct divisions: Special Projects and Programs, Quality Assurance, Special Supervision/Fraud, and Supervisory Data. The Supervision Support Department coordinates the OCC's Shared National Credit Program, administers the uniform commission examination, supervises troubled banks, and produces information about banks supervised by the OCC and information about the OCC's internal processes.

## **Special Projects and Programs Division**

This division administers the Shared National Credit, International Examination, and Uniform Commission Examination Programs. The Shared National Credit Program is an interagency program that reviews the largest syndicated loans in the banking system. During 1998, approximately 4,500 credit facilities totaling \$750 billion of credit extended by the national banking system were reviewed. The International Examination Program is an administrative program that provides support to examiners performing overseas examinations. The program provided administrative support for approximately 25 overseas examinations conducted during 1998. The Uniform Commission Examination is a program to administer the certification process and identify examiners ready for the designation of "National Bank Examiner." Approximately 125 examiners were tested in 1998.

In addition to the programs mentioned above, the division conducts project activities requested by the Senior Deputy Comptroller for Bank Supervision Operations. During 1998, these projects included exploration of supervisory related activities to assist in preparing the agency and its staff for

issues that might affect the banking industry if a slowdown in the national economy occurs; a career path project to identify career paths for field examiners to support the mission of the agency, and identification of industry certifications that would enhance the technical expertise of examiners in designated career paths. The division also developed manuals that provide information and guidance to front-line supervisors to help them fulfill their bank supervision and personnel management responsibilities.

## **Quality Assurance Division**

The Quality Assurance (QA) Division is responsible for helping all bank supervision units assure themselves that the objectives of the bank supervision process are being achieved. The division coordinates staffing of QA reviews and monitors the reviews to ensure that they follow national QA program guidelines.

The QA division administers comprehensive pre-delivery and post-delivery quality assurance programs for both the large bank and the mid-size/community bank lines of business. The QA programs cover safety and soundness as well as compliance, asset management, and BIS supervision activities. All QA program activities culminate in an annual certification by all district and large bank deputy comptrollers that banks in their district or large bank portfolios are being effectively supervised and that their bank supervision processes conform with OCC policy. These annual certifications also highlight innovative bank supervisory practices identified through QA activities as well as any systemic concerns observed within their units.

In addition, the QA division consolidates district and large bank findings into an annual report that highlights best practices and problematic quality assurance trends which may be common to several of the certifying units. The QA division works with managers throughout the agency to develop mutually acceptable resolutions to the root causes of these issues. The division subsequently monitors corrective action commitments that were put in place to deal with issues identified in the annual certifications.

## **Special Supervision/Fraud Division**

The Special Supervision/Fraud Division consists of problem-bank and fraud specialists. The special supervision analysts primary responsibility is to supervise those national banks in critical condition, monitor failing banks, coordinate bank closings, and help determine OCC policy for the examination and enforcement of problem banks. A fraud specialists is located in each district as well as headquarters and provides support and expertise on fraud-related issues.

The division's special supervision analysts are the focal point for managing most critical bank situations in which

potential for failure is high. An anticipatory approach is used in resolving these critical bank situations. The division deals with each bank individually, employing enforcement and administrative tools best suited to that bank's problems. The special supervision analysts approve the scope of examination activities, hold meetings with management and boards of directors, review corporate-related applications, and process reports of examination and correspondence for these banks.

The special supervision analysts also provide general advice and guidance on problem bank issues to district offices and other OCC units, and develop examination strategies to enhance OCC's relationship with problem banks. The division tracks district trends in problem banks and monitors for consistency of treatment. In 1998, the special supervision unit took the lead in developing a Year 2000 Contingency Plan for banks relative to possible year-2000 failures and in developing a "Glossary of Enforcement Actions." The special supervision unit also helped develop the Problem Bank School and is currently developing a new Failure Management School which will be offered in 1999. The special supervision analysts frequently represent the OCC at meetings with foreign regulators who seek out specialized problem bank knowledge.

The division's fraud specialists serve as liaisons for field staff and management on fraud-related issues, and participate on examinations to provide expertise in complex investigations. They frequently testify in court on examination and fraud findings or as expert witnesses. They advise district staff and conduct outreach meetings on various fraud topics. The fraud specialists also develop contacts with law enforcement organizations and other agencies.

## **Supervisory Data Division**

The Supervisory Data Division supports OCC management and staff decision making, analysis, and reporting on bank supervision-related matters. The division accomplishes this by periodically producing and distributing various reports and applications covering examination and supervision tracking, early warning screens and ranking reports, bank financial filters and risk assessment reports, as well as responding to various ad hoc information requests.

In 1998, the division was the focal point for quarterly data collection and reporting on the status of year-2000 remediation efforts for OCC-supervised institutions. The primary ongoing activities included providing reports on year-2000 examination status and summary evaluation data to internal and external parties.

Another major initiative of the division in 1998 was to advance the agency's intranet capabilities. The division co-

ordinates the OCCnet activities for Bank Supervision Operations. Coupled with that responsibility, the division developed and/or coordinated several OCCnet Web-based products and data collection mechanisms to assist various OCC units with their data needs.

Through the division's financial analysts located in each of OCC's six district offices, supervision and operational information for district-supervised banks is provided on a regular basis.

## **Large Bank Supervision Department**

The Large Bank Supervision Department supervises all national bank subsidiaries of the following 29 companies: ANB Ambro North America; BancOne Corporation; BankAmerica Corporation; Bank of Boston Corporation; Barclays Global Investors, N.A.; Chase Manhattan Corporation; Citicorp; First American Bank Corp.; Firststar Corporation; First Chicago NBD Corporation; First Security Corporation; First Tennessee National Corp.; First Union Corporation; Fleet Financial Group; Huntington Bancshares; KeyCorp; MBNA Corp.; Mellon Bank Corporation; Mercantile Bancorporation; National City Corp.; PNC Bank Corp.; Republic New York Corporation; SouthTrust Corporation; SunTrust Banks, Inc.; Union Bancal Corporation; Union Planters Corporation; U.S. Bancorp; Wachovia Corp.; and Wells Fargo Corporation. As of September 30, 1998, these 29 holding companies held assets of \$2.7 trillion. Under these companies, there are 170 national banks and 17 national trust charters with total assets of \$2.5 trillion, representing 82 percent of the total assets of the national banking system, but only 7 percent of the charters.

The department is headed by three deputy comptrollers each managing a portfolio of banks and directly supervising examiners-in-charge of the respective institutions. The field examining staff is divided into four geographically based teams. These teams consist of field examiners who support the continuous supervision efforts in each bank. The department also maintains a team in London. That team provides examination and supervision support for European affiliates and branches of national banks. It plays a major role in monitoring developments in the European financial markets.

The department's philosophy is one of continuous supervision to assess the condition and risk profile of the bank and to take appropriate supervisory and regulatory action when necessary. To implement this philosophy, supervisory strategies are developed annually for each large bank company and are updated quarterly. Strategies are continuous and relate closely to each company's condition, risk profile, economic factors, and marketplace

developments. A major component of each strategy is the communication plan. Areas of special supervisory emphasis in 1998 included supervisory initiatives in sub-prime lending, credit underwriting, large bank CRA, year-2000 compliance, and anti-money laundering. This plan must maintain a strong, consistent, and frequent two-way dialogue with bank management and its board of directors.

## **Compliance Operations Department**

The Compliance Operations Department was formed in June 1998. The purpose of this department is to implement OCC consumer compliance policy and provide expert advice to the districts and large banks to ensure efficient, consistent, and effective consumer compliance supervision of national banks. Compliance Operations works closely with Community and Consumer Policy. Compliance Operations is headed by a deputy comptroller. All compliance specialists in the districts and in the large banks report directly to the compliance operations department. Front-line managers consist of six district team leaders and four large bank geographic team leaders.

Several important initiatives were started in 1998. A compliance liaison structure was developed whereby all ADCs and Large Bank EICs will be assigned a compliance liaison to provide advice and counsel on consumer compliance, fair lending, Community Reinvestment Act, and Bank Secrecy Act. This project included the development of formalized compliance liaison responsibilities and customer service standards. Staffing plans were also developed during 1998 that include the utilization of compliance specialists throughout the banking population. Projects under way include development of pre-delivery quality control processes as well as continued integration of risk-based supervision.

## **Continuing Education Department**

The Continuing Education Department provides a variety of services to meet the training and development needs of OCC employees. These services include consultation and instructional design, identifying knowledge gaps, internal schools developed by subject matter experts, self-study courses, vendor-based courses conducted at OCC sites, and numerous external training options. The Continuing Education Department was restructured in November 1998. The restructure realigned the Continuing Education staff into three teams: Design/Development, Customer Service, and Support/Delivery.

The Design/Development Team is responsible for the development and maintenance of technical (examiner) and management courses. The team is comprised of technical, management, and MIS designers and course administrators. This group uses a variety of delivery methods, including computer-based training (CBT) on the intranet, interactive compact discs, and traditional classroom training. Design/Development works closely with other OCC departments to develop internal courses. They use task forces comprised of subject matter experts to develop the course content, instructional design specialists to design the course, and vendors, as needed, for development of course segments. Where practical, Design/Development also uses off-the-shelf vendor-based products to meet specific training needs.

The Customer Service Team is responsible for identifying training courses and tools that meet employees' training needs. The team includes all district training officers and their staff, the Washington and Large Bank training officers, and a management analyst. The training officers serve as primary contact for their serviced employees. They provide advice and counsel on available training courses, both internal and external; manage the internal and external course registration process; and communicate training policies and procedures to their customers. They also assist employees with researching courses that will help them develop needed skills.

The Support/Delivery Team manages the administrative functions related to the delivery of OCC internal training, Federal Financial Institutions Examination Council courses, and registration through the external training program. This team works together with the other Continuing Education teams in assessing training needs and determining how to integrate technology in the design and delivery of training. Support/Delivery also maintains Continuing Education's intranet site, which includes the internal course request system and external training program applications. This team, in collaboration with Information Technology Services, is responsible for developing and implementing the training strategies and programs related to the standard OCC desktop applications, as well as the maintenance/update of the same.

Continuing Education also manages a cadre of reserve examiners that provide the OCC with a pool of experienced personnel from which to draw to meet the needs of the agency. During 1998, use of the cadre improved the agency's ability to respond effectively to resource needs without pulling resources from other priorities.

# ***Office of the Chief Counsel***

## **Administrative and Internal Law Division**

The Administrative and Internal Law Division (AIL) is responsible for providing legal advice and service on issues and matters relating to the OCC's operations as a federal agency. The division is also responsible for assisting the chief counsel in various aspects of the law department's internal operations.

The individual members of AIL's staff have specialized experience in one or more of four major areas associated with the OCC's administrative functions: personnel, procurement, ethics, and information law. In 1998, legal service continued to be provided on issues and matters involving these laws as well as those relating to the agency's fiscal operations. As in previous years, the division also continued to administer the OCC's ethics program in conjunction with the district legal staffs.

## **Bank Activities and Structure Division**

The Bank Activities and Structure Division (BAS) provides legal advice on corporate structure matters such as chartering national banks, branching, main office relocations and designations, operating subsidiaries and investments in other entities, mergers and acquisitions, interstate operations, management interlocks, and changes in bank control. The division also advises on issues relating to general bank powers, special purpose banks, lending limits, leasing activities, loans to insiders, affiliate transactions, bank premises, other real estate owned, and failing banks. These questions arise under such laws as the National Bank Act, Riegle-Neal Interstate Banking and Branching Efficiency Act, Federal Reserve Act, Federal Deposit Insurance Act, Bank Holding Company Act, Bank Merger Act, Change in Bank Control Act, Depository Institution Management Interlocks Act, and the Financial Institutions Reform, Recovery, and Enforcement Act.

The Bank Activities and Structure Division provides legal advice and service to other units within the OCC, such as Bank Organization and Structure, Large Bank Supervision, the Core Policy, Treasury and Market Risk, International Banking and Finance, and Special Supervision. As well, it provides advisory services to national banks, the banking bar, and the public. In developing its legal positions, the division works closely with other law department units, including the OCC's district legal staffs.

The following are summaries of significant BAS legal opinions and activities during 1998:

### **Automated Teller Machines**

The division drafted a letter explaining why, because of changes in the definition of a "branch" enacted in 1996, ATMs are no longer "branches" under the McFadden Act. It then outlined how a state law prohibiting out-of-state banks from having ATMs in the state could nevertheless be read to permit out-of-state national banks to establish ATMs. Alternatively, the letter concluded that if this interpretation was rejected, then the state law was preempted.

### **Expanded Activities**

Bank Activities and Structure provided legal support for several matters relating to new or expanded bank activities. One decision drafted by BAS approved a national bank's acquisition, as an operating subsidiary, of a company engaged in Medicare and Medicaid benefits counseling, and the handling of certain health insurance collections and disbursements on behalf of state governments. Such activities are likely to become increasingly important as the population grows older, and this decision demonstrated how they are logical outgrowths of the traditional banking activities of financial planning and counseling, payment and claim processing, and acting as a finder.

Another decision relating to health care approved a national bank's acquisition of a one-half ownership interest in a company providing payment and information processing services for the health care industry. This is another example of the increasing role that national banks may be expected to play in the field of health care, building on their traditional payment and financial information processing activities.

The division continued to be involved in providing a legal foundation for electronic banking activities. Consequently, BAS drafted an approval for national bank members of a consortium of financial and technology companies to invest, through the consortium, in a company providing electronic commerce services such as financial application software, home banking services, electronic bill payment, and portfolio management. This decision represented an important further step in the evolution of electronic banking services.

Other new activity approvals in which BAS played a part involved subjects as diverse as real estate appraisal and

title abstracting, investments in small business investment corporations, and the sale of commemorative coins.

### **Interstate Operations**

The division continued to be significantly involved in implementing provisions of the Riegle- Neal Interstate Banking and Branching Efficiency Act that took effect in 1997. In one corporate decision drafted by BAS, a national bank located in California bank purchased a New York City branch of a Korean bank, pursuant to authority in the Riegle- Neal Act, 12 USC 36(d) and 1831u. The two banks were unrelated. This was the first purchase by a national bank of a U.S. branch of a foreign bank.

### **Investments in Subsidiaries**

The division drafted a decision that permitted a national bank to acquire one of the country's largest consumer lending companies as an operating subsidiary. The decision was notable for the wide variety of activities engaged in by the acquired company, as well as its national and even international geographic scope.

### **Community and Consumer Law Division**

The Community and Consumer Law Division (CCL) provides legal interpretation and advice on consumer protection, fair lending, and community reinvestment issues. The division is also responsible for providing legal advice on issues related to bank community development powers and activities, including activities conducted within the bank, investments in community development corporations and projects, and participation in community development financial institutions. In addition, the division provides advice regarding community protests of mergers and acquisitions by national banks.

In 1998, CCL worked with the other federal regulatory agencies on a number of significant projects, which included issuance of a report on consumer concerns with respect to electronic money for the Consumer Electronic Payments Task Force, which was chaired by then Comptroller Eugene A. Ludwig; publication of a consumer education brochure on mortgages, mortgage lenders, credit problems, loan pricing, and negotiations entitled, "Looking for the Best Mortgage: Shop, Compare, Negotiate"; and continuing to develop guidance on the Community Reinvestment Act (CRA) regulations.

Within the OCC, CCL is the primary source of legal assistance and service to the agency's supervisory personnel and community development specialists as well as national banks, the banking bar, and the public with respect to consumer protection, fair lending, and community rein-

vestment issues. In this capacity, the division's staff provided the legal analysis for three opinions issued in 1998 that addressed the CRA and community development. These opinions are summarized below.

### **Legal Opinions**

The Community and Consumer Law Division provided a precedent-setting opinion when it advised a national bank that funds transfer agent agreements (FTAAs) may be considered as community development services under the Community Reinvestment Act regulations as long as the FTAAs promote economic development by providing financial services that enable small-business marketers to grow, thus necessitating, for example, the hiring of additional employees, including low- and moderate-income individuals. In this letter, the OCC recognized bank services such as the FTAAs as "community development services" for the first time.

The division also explained, for the first time, that, in connection with CRA data collection and reporting requirements, financial institutions should collect and report, if required, the gross annual revenue of small business and small farm borrowers and the gross annual revenue of consumer borrowers, rather than the adjusted gross annual revenue or income of these borrowers. This opinion was based both on the language of the regulation and the rationale behind the income/revenue collection requirement, i.e., to allow the OCC and the public to determine the actual size or income of the bank's borrowers.

Finally, CCL prepared a letter for Acting Chief Counsel Natter's signature stating that, pursuant to 12 USC 24(Eleventh) and 12 CFR part 24, a national bank may invest in a subsidiary community development corporation (CDC) that will provide clearinghouse services intended to bring potential buyers and sellers of tax credit investments together. In addition, in some cases, the CDC will act as a financial intermediary, buying and reselling certain types of transferable state tax credits. This letter was precedential for two reasons. First, it discussed, for the first time, what is meant by an investment designed "primarily" to promote the public welfare. Second, it approved, for the first time, an investment in an entity that will provide clearinghouse-type services.

### **Other Matters**

In 1998, CCL also played an active role on the OCC's National Fair Access Committee, and in the development of the publication, *A Guide to Tribal Ownership of a National Bank*. Additionally, CCL staff provided legal guidance regarding CRA protests on several bank mergers and acquisitions during 1998.

## Counselor for International Activities

The Counselor for International Activities (IA) serves as the law department's focal point for international banking issues relating to foreign banks' operations in the United States, as well as foreign operations of domestic banks. On such issues, IA provides legal advice to OCC supervisory offices and other divisions of the law department.

In 1998, IA provided advice on a number of issues relating to cooperation and exchange of information among bank supervisors of various countries. For instance, it has:

- Provided counsel on matters arising in the Basle Committee for Bank Supervision and the Joint Forum on Financial Conglomerates as these groups studied exchange of information and cooperation by supervisors of financial institutions;
- Worked closely with Treasury Department and other regulators in addressing these issues in the G-7 context; and
- Worked closely with the FRB on issues relating to bilateral arrangements with other bank supervisors to exchange supervisory information.

The IA also continued to work on other issues considered by the Basle Committee for Bank Supervision, and has continued to work closely with the Treasury Department on regulatory and supervisory matters regarding international banking and trade.

In 1998, IA also provided advice on legal issues regarding the authority of foreign banks to establish federal branches and agencies, intra- or interstate, in the United States. For example, it clarified the ability of a foreign bank to establish an initial branch in Florida, or to establish an additional interstate branch in Florida. Similarly, IA worked on a number of legal issues arising from mergers of foreign banking institutions and the impact of those mergers on the U.S. operations of the involved institutions. It has also provided counsel to other divisions of the law department in the preparation of proposed or final regulations involving foreign banks.

## Enforcement and Compliance Division

The Enforcement and Compliance Division (E&C), in conjunction with the districts, conducts investigations, recommends administrative actions, and litigates those actions on behalf of the OCC in administrative proceedings. Enforcement and Compliance may defend these actions if they are challenged in United States courts of appeals. The division also defends challenges to temporary cease-and-desist orders and suspensions that

have been filed in district court. The division supports criminal law enforcement agencies and provides advice on enforcement and compliance issues to senior OCC officials.

## Administrative Actions

Enforcement and Compliance is responsible for nondelegated actions against individuals and banks, while the OCC's districts are responsible for delegated actions. In addition to adjudicating its administrative cases, E&C conducted numerous investigations in 1998.

During 1998, the OCC issued 12 cease-and-desist orders against individuals, including 5 restitution orders. Restitution ordered in 1998 totaled \$10,266,875. The OCC also imposed 24 civil money penalties (CMPs) on individuals, totaling \$1,120,034, and issued 13 letters of reprimand and 30 supervisory letters. In addition, the OCC issued 17 removal and prohibition orders. Finally, the OCC issued one temporary cease-and-desist order and four suspensions against individuals.

The OCC issued three CMPs against banks, totaling \$1,503,000. Seven cease-and-desist orders were issued against banks, along with three prompt corrective action directives, one safety and soundness order, 20 formal agreements, 13 memorandums of understanding, and 17 commitment letters. A comprehensive listing and description of the noteworthy formal enforcement actions taken by the OCC in the first half of 1998 appears in the September issue of the *Quarterly Journal*, "Special Supervision/Fraud and Enforcement Activities." For the last half of 1998, see the same section in this issue of the *Quarterly Journal*. In addition, E&C continued its Fast Track Enforcement Program (initiated in 1996), which helps ensure that bank insiders and employees who have committed criminal acts involving banks, but who are not being criminally prosecuted, are prohibited from working in the banking system.

## Year-2000 Enforcement Actions

In 1998, the OCC also began to take enforcement actions to require national banks' compliance with interagency guidance on preparing their computer systems for the year-2000 conversion. The OCC developed a new type of enforcement action, a supervisory directive, that alerts national banks that have material deficiencies in their year-2000 preparation of their deficiencies and summarizes the OCC's expectations of how the banks need to address them. In 1998, the OCC issued 330 year-2000 supervisory directives to national banks. Included in the enforcement actions against banks tallied in the preceding section were one safety and soundness order, seven formal agreements, six memorandums of understanding, and three commitment letters for year-2000 deficiencies.



Together with the Federal Deposit Insurance Corporation and the Office of Thrift Supervision, the OCC also entered into a consent order against an undercapitalized data processing servicer that, because of its financial condition, was lagging behind in its year-2000 readiness. In addition, the OCC began the safety and soundness order process against eight banks during 1998, seven of which submitted acceptable safety and soundness compliance plans.

### **Law Enforcement Support**

In the past year, E&C continued to provide information and expert testimony to local, national, and international law enforcement authorities. The national bank examiners in E&C who are responsible for monitoring offshore shell banks and other forms of external fraud testified in 15 criminal trials. The division also continued to alert the banking industry to fraudulent or questionable offshore shell banks and other fraudulent practices, issuing a total of 46 OCC alerts.

The Enforcement and Compliance Division continued to work closely with the interagency Bank Fraud Working Group (BFWG), which is chaired by the Department of Justice (DOJ). The BFWG continues to work to improve coordination and cooperation between the federal financial institutions regulatory agencies, DOJ, and the other law enforcement and regulatory agencies. During the past year, with E&C input, the BFWG revised its interagency Bank Fraud Directory. The division also continued to chair the BFWG's subgroup on check fraud, which focuses on the nature and extent of check fraud in the country and hosts quarterly meetings on an interagency basis.

As part of the OCC's anti-money-laundering efforts, E&C participated in the National Anti-Money Laundering Group, which functions as the OCC's central coordinating body for all agency anti-money-laundering efforts. Among the group's accomplishments in 1998 were: development of a program to identify and examine high-risk banks, and completion of four such examinations; completion of horizontal examinations of several national banks' South American branches; and development of a module for outreach meetings. Similar groups have now been formed in each district office. The OCC also continued to participate in a number of interagency anti-money-laundering groups, including the Anti-Money Laundering Working Group, chaired by the Financial Crimes Enforcement Network and DOJ, and the Bank Secrecy Act Advisory Group.

### **Legislative and Regulatory Activities Division**

The Legislative and Regulatory Activities Division (LRA) drafts the OCC's regulations, provides legal support for

the OCC's legislative work, provides legal advice on issues relating to national banks' regulatory capital requirements, and works on a variety of other projects as directed by the chief counsel or the deputy chief counsel.

In 1998, LRA attorneys worked with staff in other divisions of the law department and throughout the OCC to prepare several rules, covering a wide range of legal and supervisory issues. Revisions to the following rules were among the most significant regulatory actions that the OCC took in 1998:

#### **Part 4: Expanded Examination Cycle**

*National banks.* This final rule was published in the *Federal Register* on April 2, 1998, and was effective upon publication. The rule, which was issued jointly with the other federal banking agencies, appears at 63 Fed. Reg. 16378.

Pursuant to this rule, a national bank is eligible for an 18-month examination schedule if the bank: 1) has total assets of \$250 million or less; 2) is well capitalized as defined in section 38(b)(1)(A) of the Federal Deposit Insurance Act; 3) is well managed; 4) received a Uniform Financial Institutions Rating System rating of 1 or 2 at its most recent examination; 5) is not subject to a formal enforcement proceeding or order; and 6) has not undergone a change in control during the previous 12-month period.

*Federal branches and agencies.* This interim rule was published in the *Federal Register* on August 28, 1998, and was effective upon publication. The rule, which was issued jointly with the Federal Reserve Board and the Federal Deposit Insurance Corporation, appears at 63 Fed. Reg. 46118.

Under this rule, a U.S. branch or agency of a foreign bank is eligible to be considered for an 18-month examination cycle if the office: 1) has total assets of \$250 million or less; 2) has received a composite ROCA supervisory rating (based on risk management, operational controls, compliance, and asset quality) of 1 or 2 at its most recent examination; 3) meets specified minimum capital criteria; 4) is not subject to a formal enforcement action or order by the OCC; and 5) has not experienced a change in control during the preceding 12-month period in which a full-scope, on-site examination would have been required but for the extended cycle.

#### **Part 9: Fiduciary Activities of National Banks**

This final rule was published in the *Federal Register* on February 11, 1998, and was effective upon publication. The rule appears at 63 Fed. Reg. 6472.

The rule clarifies that part 9, which applies if a bank receives a fee for providing investment advice, does not

apply to those activities in which the investment advice is merely incidental to other services.

### **Part 30: Safety and Soundness Standards**

The OCC's interim rule and guidelines were published in the *Federal Register* on October 15, 1998, and were immediately effective. The rule and guidelines, which were jointly issued with the other federal banking agencies, appear at 63 Fed. Reg. 55486.

The guidelines describe steps that each national bank must take to ensure that its mission-critical systems are year-2000 (Y2K) ready. The guidelines require a bank to ensure the involvement of the board of directors and management in the institution's Y2K efforts, adopt a project plan, update its mission-critical systems, complete tests of these updates by specific testing deadlines, plan for contingencies, and manage customer risk. (A bank that has already developed and adopted plans and procedures to achieve Y2K readiness need not prepare new plans and procedures just to satisfy the guidelines.)

The guidelines supplement the more detailed Y2K documents that the OCC has released jointly with the other federal banking agencies and the National Credit Union Administration under the auspices of the Federal Financial Institutions Examination Council. The federal banking agencies issued the guidelines pursuant to their specific statutory authority to prescribe safety and soundness standards. 12 USC 1831p-1. Violation of the guidelines may be remedied by the enforcement mechanisms provided by that statute, including issuance of a safety and soundness order that is directly enforceable in federal district court.

### **Part 32: Lending Limits**

The OCC's final rule was published in the *Federal Register* on April 1, 1998, and was effective May 1, 1998. The rule appears at 63 Fed. Reg. 15744.

The final rule clarifies the date on which a national bank must recalculate its capital and surplus for lending limit purposes. The rule also makes several other technical changes, including, for instance, clarifications of: 1) what constitutes Tier 1 and Tier 2 capital for purposes of calculating the lending limit, and 2) the circumstances under which a loan that is secured by a takeout commitment or guarantee of a federal agency will be exempt from the lending limits.

For regulatory projects, LRA also serves as the OCC's liaison with staff at the Department of the Treasury, at the Office of Management and Budget, and at the Federal Register. The division provides advice and assistance on compliance with a variety of statutes affecting rulemakings,

including the Administrative Procedure Act, the Paperwork Reduction Act, the Regulatory Flexibility Act, the Unfunded Mandates Act, and the statute providing for Congressional review of final agency rules and with various executive orders that may apply when the OCC issues regulations.

*Legislation.* The division's legislative responsibilities include summarizing and analyzing pending and enacted legislation affecting national banks and the OCC; drafting legislative materials for the OCC and, upon request, providing drafting support to the Department of the Treasury and technical assistance to congressional committees and members of Congress; advising in the development of the OCC's positions on legislative issues; assisting in the preparation of the Comptroller's congressional testimony; and providing information responding to written or telephone inquiries from members of Congress or Congressional staff for information about the effect a legislative proposal may have on national banks or their supervision.

Legislative activity in 1998 focused principally on efforts to modernize the financial institutions industry. Although no financial modernization legislation passed the 105th Congress, LRA analyzed, monitored, and provided comments on a variety of financial modernization proposals and bills.

*Capital.* The Legislative and Regulatory Activities Division provides drafting assistance and legal counsel with respect to the OCC's risk-based capital regulations. Most of the OCC's capital rules are issued jointly with the other three federal banking agencies- the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision. In 1998, the agencies issued the following rules:

### **Part 3: Minimum Capital Ratios**

*Servicing assets.* The amendment was published in the *Federal Register* on August 10, 1998, and was effective October 1, 1998. The rule, which was issued jointly with the other federal banking agencies, appears at 63 Fed. Reg. 42668.

This rule amends the OCC's risk-based capital guidelines to increase from 50 percent to 100 percent of Tier 1 capital the maximum amount of servicing assets (when combined with purchased credit card relationships) that may be included in regulatory capital. Servicing assets are defined to include both mortgage and nonmortgage servicing assets. The final rule also: 1) expands the 25 percent sublimit of Tier 1 capital to include nonmortgage servicing assets as well as purchased credit card relationships; and 2) subjects nonmortgage servicing assets, as well as mortgage servicing assets and purchased credit card relationships, to a 10 percent valuation discount.

*Unrealized gains.* This amendment to the risk-based capital rules was published in the *Federal Register* on September 1, 1998, and was effective October 1, 1998. The rule which was issued jointly with the other federal banking agencies, appears at 63 Fed. Reg. 46521.

Consistent with the treatment contemplated by the 1988 Basle Accord, this rule amends the OCC's risk-based capital guidelines to permit institutions to include Tier 2 capital up to 45 percent on the pretax, net unrealized holding gains on available-for-sale equity securities.

*National banks' insurance activities.* Legislative and Regulatory Affairs assists the chief counsel in matters affecting the interplay of state insurance regulation and permissible insurance activities authorized for national banks. These matters include the development of a model complaint-sharing agreement between the OCC and the National Association of Insurance Commissioners.

## Litigation Division

The Litigation Division (LIT) represents the OCC in court under a grant of independent litigating authority. The division also works closely with the U.S. Department of Justice and with U.S. attorneys on matters of mutual interest. Described below are some of the division's activities in 1998.

### Bank Powers/Activities Litigation

During 1998, the Litigation Division prevailed in the federal courts as both party and amicus in litigation over the authority of national banks to sell annuities and insurance, charge fees for services, and reorganize their operations to promote efficiency and better serve their customers. Specifically, the OCC prevailed in the following litigation:

*American Council of Life Ins. v. Ludwig and OCC*, 1 F. Supp.2d 24 (D.D.C., March 31, 1998)- The U.S. District Court for the District of Columbia upheld as reasonable and in accordance with law the OCC's decision permitting a state bank, Magna Bank of Brentwood, Missouri, to retain two insurance agent subsidiaries upon its conversion to a national charter under 12 USC 35. Plaintiff appealed and, at year end, the matter had been fully briefed before the D.C. Circuit.

*Ghiglieri v. NationsBank of Texas, N.A.*, 1998 U.S. Dist. LEXIS 6637 (N.D. Tex., May 6, 1998)- The OCC and NationsBank prevailed in this action brought in U.S. District Court for the Northern District of Texas by the Texas banking commissioner, challenging an intrastate merger of NationsBank of Texas, N.A. and NationsBank, N.A. The commissioner alleged that the merger was an interstate merger under 12 USC 215a- 1, prohibited by Riegle- Neal and Texas' opt-out law. The court dismissed the complaint

without prejudice on the condition that the commissioner not challenge the Texas merger in the future.

*Deposit Guaranty Nat'l. Bank v. Dale*, No. 95- CV- 640- WS (S.D. Miss., September 30, 1998)- The OCC participated as amicus in this action brought by a national bank seeking injunctive and declaratory relief against the Mississippi Commissioner of Insurance, enjoining him from enforcing state law that restricts the bank's sale of insurance and annuities. The U.S. District Court for the Southern District of Mississippi granted the bank's request for relief, holding that the state laws are preempted by 12 USC 92 and 24(Seventh) to the extent they apply to national banks. The state did not appeal.

*New York Bankers Assn. v. Levin*, 999 F. Supp. 716 (March 27, 1998)- The OCC participated as amicus in this action brought by the Canandaigua National Bank and Trust Company and the New York Bankers Association against the New York superintendent of insurance. The bank sought a declaration that a New York statute that prohibits the sale of property insurance when the property being insured is the subject of an outstanding bank loan is preempted by 12 USC 92. The U.S. District Court for the Western District of New York granted the bank's motion for summary judgment. The state did not appeal.

*Nicholas v. Deposit Guaranty National Bank*, No. 1:97cv186GR (S.D. Miss., January 1, 1998)- The OCC participated as amicus in this action brought by a bank customer regarding the bank's imposition of a \$20.00 nonsufficient funds fee for items presented when her checking account lacked sufficient funds to cover checks drafted on the account. Plaintiff alleged that the fee was imposed in violation of 12 USC 85, the Truth-in-Lending Act, and state usury law. The U.S. District Court for the Southern District of Mississippi granted the bank's motion for summary judgment, holding, *inter alia*, that the fee is not interest because it does not compensate the bank for an extension of credit; instead, the fee arises from the terms of a depository agreement. Plaintiff did not appeal.

*Reverend Jones v. Ludwig*, 1998 U.S. App. LEXIS 12925 (D.C. Cir., May 12, 1998)- The U.S. Court of Appeals for the D.C. Circuit summarily affirmed the decision of the lower court denying plaintiff's motion for an injunction seeking reversal of the OCC's approval of First National Bank of Commerce's acquisition of Wolcott Mortgage Group. The courts held that judicial review was unavailable as to plaintiff's claim that the OCC' approval violated the Fair Housing Act, and granted summary judgment as to plaintiff's claim that OCC has failed generally to fulfill the mandate of the Federal Housing Administration.

*Berens v. Ludwig*, 160 F.3d 1144 (7th Cir., November 17, 1998)- The U.S. Court of Appeals for the Seventh Circuit,

affirming the decision of the court below, upheld the OCC's methodology in appraising the dissenters' shares in Marquette Bank Shakopee, N.A., which consolidated with several other banks to form Marquette Bank, N.A. The panel cited OCC's primary argument on appeal, namely that plaintiff's suit was an attempt to use 12 USC 215 to recoup past unpaid dividends.

*Fleet Bank, N.A. v. Burke*, No. 397 CV 00133 (JBA) (D.Conn., September 30, 1998), *rev'd.*, 1998 U.S. App. LEXIS 28218 (2nd Cir., 10/23/98), *reh. pet. filed*— Fleet Bank, N.A., filed a complaint against the Connecticut banking commissioner seeking, among other things, a declaration that Fleet can impose a surcharge on nondepositor users of its ATMs in Connecticut. The commissioner contends that Connecticut law prohibits the surcharges. The OCC filed an amicus brief arguing that national banks have authority to charge for use of their ATMs. The U.S. District Court for the District of Connecticut found for the bank, holding that the state law does not prohibit the surcharges. The U.S. Court of Appeals for the Second Circuit reversed, holding that the lower court lacked jurisdiction to address the state law issue. Subsequently, Fleet and two other national banks filed actions in state and federal court seeking injunctive relief from Connecticut's cease-and-desist orders prohibiting imposition of the surcharges. The OCC filed amicus briefs in those actions. The OCC also filed a motion to intervene in the federal suit, which motion was granted. In addition, the OCC moved for a temporary restraining order, on which the court heard oral argument on December 22, 1998. Meanwhile, in connection with Fleet's petition for rehearing before the Second Circuit, the OCC filed an amicus brief on its exclusive enforcement authority.

*Hedrick v. USA*, No. 95-684 (Ct. Fed. Cl., November 20, 1998)— The U.S. Court of Federal Claims granted the OCC's motion to dismiss a complaint alleging that OCC's decision to close Rushville National Bank was a Fifth Amendment taking without just compensation. Hedrick has filed a notice of appeal.

### **Enforcement Litigation and Administrative Decisions**

*Vickery v. U.S. Department of the Treasury*, 159 F.3d 638 (D.C. Cir., March 3, 1998)— The U.S. Court of Appeals for the D.C. Circuit ruled in favor of the Comptroller on an appeal of his decision to impose a \$250,000 civil money penalty on Charles R. Vickery for repeated breaches of his fiduciary duty to the First National Bank of Bellaire.

*Banking Consultants of America v. USA*, No. 97-2791 DV (W.D. Tenn., January 20, 1998)— The U.S. District Court for the Western District of Tennessee granted the motion of the OCC and Federal Reserve Board to dismiss plaintiffs' action seeking to enjoin an ongoing investigation by

the two agencies. The court held that it lacks jurisdiction to interfere with such investigations. Plaintiffs appealed to the Sixth Circuit, which stayed the case pending settlement discussions.

*Leuthe v. OFIA*, 162 F.3d 1151 (3d Cir., June 8, 1998)— The U.S. Court of Appeals for the Third Circuit, affirming the court below, dismissed plaintiffs' allegations that the financial institution administrative enforcement process, including the appointment of administrative law judges employed by the Office of Financial Institution Adjudication, violates the Constitution and federal law.

### **Administrative Enforcement Decisions**

During 1998, the division drafted two comptroller decisions (*Espiritu* and *Salmon*) ordering the payment of CMPs and restitution for violations of law and unsafe and unsound banking practices.

### **Requests for OCC Information and Related Litigation**

In 1998, the Litigation Division continued to protect the OCC's interest in the confidentiality of its examination reports and other non-public material. For example, the division:

- Opposed Frost National Bank's motion to compel production of a suspicious activity report and negotiated a settlement.
- Prepared decisions on the City of San Francisco's request for documents on Bank of America and negotiated a settlement of the city's subsequent suit against OCC.
- Opposed efforts in federal and state courts in Vermont to compel banks to produce OCC documents.
- Responded to numerous requests under 12 CFR part 4 for access to OCC documents and/or testimony of OCC officials.

### **Personnel/Administrative Litigation**

During 1998, the OCC prevailed in all but one decision on personnel actions challenged before the Equal Employment Opportunity Commission, the Merit Systems Protection Board (MSPB), and the Department of the Treasury. In addition, the OCC (through the Litigation Division) reached favorable settlements of other personnel actions. A particularly noteworthy decision of the Merit Systems Protection Board upheld the administrative judge's decision in favor of OCC in *Acree v. OCC*. The MSPB upheld OCC's removal of an employee who violated the Treasury Department's minimum standards of conduct by using

confidential OCC bank supervisory information to trade profitably in options. Mr. Acree has filed an appeal with the U.S. Court of Appeals for the Federal Circuit.

The division also represented OCC's interests in litigation brought by the United States against Blue Cross and Blue Shield.

### **Legal Advice**

On a daily basis, the Litigation Division gives advice within and outside the OCC on a wide range of subjects including corporate applications, interpretive letters and memoranda prepared by other units in the law department, section 914 applications, part 4 issues, year-2000 issues, personnel issues, employee garnishments, civil procedure, and indemnification questions.

### **Securities and Corporate Practices Division**

The Securities and Corporate Practices Division (SCP) provides legal counsel to the OCC and advises the public on federal securities laws and banking laws related to bank securities activities; bank sales of mutual funds, annuities and insurance; bank derivative activities; bank fiduciary matters; bank corporate practices; and bank investments.

Securities and Corporate Practices administers and enforces the federal securities laws affecting national banks with publicly traded securities, including the Securities Exchange Act of 1934, and the OCC's related disclosure regulations at 12 CFR part 11. The division also enforces the OCC's securities offering disclosure rules (12 CFR part 16), which govern national banks' public and private offers and sales of their securities.

The division is responsible for the OCC's enforcement program to assure national bank compliance with federal securities laws applicable to bank municipal and government securities dealers, bank transfer agents, and other bank securities activities. The division is the OCC's liaison to federal and state securities regulatory agencies, including the Securities and Exchange Commission (SEC).

In carrying out these responsibilities, as in past years, SCP reviewed securities offering disclosures, proxy materials, periodic reports, and other reports filed with the OCC under the Comptroller's securities disclosure rules and merger application procedures. The division also continued to contribute to the SEC's enforcement and disclosure review responsibilities by, for example, arranging for the SEC to review bank examination reports and work papers in SEC enforcement cases.

Securities and Corporate Practices also provides the SEC with information on national bank subsidiaries of bank holding companies filing securities disclosures with the SEC. In 1998, the division also referred potential violations of securities laws under the SEC's jurisdiction to the SEC.

Additionally, in 1998, SCP prepared or participated in the issuance of several significant opinions. These opinions are summarized as follows:

### **Insurance Activities**

Securities and Corporate Practices provided the legal analysis for several precedential opinions and approvals in the insurance area in 1998. In one letter, the OCC addressed, for the first time, the ability of a national bank insurance agency, if licensed under Louisiana law, to establish locations of the agency outside of the "place of 5,000," i.e., so-called "satellite offices," and to engage in insurance sales activities at those locations. The letter concluded that national banks and their subsidiaries in Louisiana may solicit and sell insurance in the same manner permissible for insurance agencies generally in the state of Louisiana. The letter relied on the "First Union letter" (Interpretive Letter No. 753 (November 4, 1996) addressing banks' authority to sell insurance as agent under section 92) and the requirements of 12 USC 92.

Another insurance-related letter examined the definition of the term "place" in 12 USC 92 and concluded that an area designated as a "place" by the U.S. Census Bureau is treated as a "place" for purposes of section 92. Since the Census Bureau in the 1990 census defined "places" to include "incorporated places" and "census designated places," these locations would also be treated as a "place" for purposes of section 92. The letter noted that there may be unusual circumstances where other localities also could qualify as a "place" under section 92.

Another insurance-related letter addressed the participation of national banks in one type of insurance program between national banks and independent insurance agencies. In that program, the agencies would form and own a corporation that would solicit and sell insurance. National bank employees would refer customers and distribute informational insurance materials. This letter discussed the permissibility of this type of program under 12 USC 92 and the principles of the "First Union letter" as well as under the OCC's interpretive ruling and precedent letters addressing national banks' authority under 12 USC 24(Seventh) to act as a "finder."

The SCP division prepared two opinions involving credit-related insurance. One decision allowed a national bank operating subsidiary to underwrite and reinsure credit

life insurance, credit disability insurance, and involuntary unemployment insurance sold to customers that borrow from the bank and its lending subsidiaries. The decision concluded that underwriting and reinsuring credit insurance on subsidiaries' loans are part of the business of banking because credit-related insurance products assist bank customers in meeting loan obligations and are logical outgrowths of banks' lending authority. The decision also concluded that underwriting and reinsuring credit-related insurance on subsidiaries' loans are incidental to a bank's lending because they enhance a national bank's ability to receive repayment for its loan and promote the lending business by enabling loan customers to make timely repayments on their loans. Another letter concluded that national banks may offer credit card "debt suspension agreements," which freeze a cardholder's account for up to a specified number of months in the event that the cardholder becomes involuntarily unemployed, is unable to work due to disability, goes on approved family leave, is hospitalized for more than a specified number of days, or becomes temporarily unable to continue to make payments on the account for certain or other specified reasons. During a "freeze" the cardholder is not charged interest or fees.

The Securities and Corporate Practices Division prepared several opinions in 1998 involving mortgage reinsurance subsidiaries. In these opinions, the OCC concluded that a national bank subsidiary may enter into reinsurance agreements with a number of unaffiliated insurance carriers that issue mortgage insurance on mortgage loans originated or purchased by the bank or its affiliates. The subsidiary will accept a portion of the default risk on the mortgage loans, in exchange for a share of the insurance premiums paid. The OCC concluded that the subsidiary's activities are functionally equivalent to or a logical outgrowth of the bank's business of underwriting mortgage loans. Several decisions approved applications to expand the activities of national banks' mortgage reinsurance operating subsidiaries to include reinsuring a portion of the mortgage insurance on loans serviced by the bank or the bank's lending affiliates. The OCC concluded in these decisions that the reinsurance of serviced loans is part of the business of banking because it is functionally equivalent to purchases of a loan participation in the serviced loans. The OCC also found mortgage reinsurance on serviced loans to be permissible as incidental to banking because it is convenient and useful to the mortgage banking business.

### **Enforcement Activities**

On April 30, 1998, NationsBank, N.A., consented to a civil money penalty of \$750,000 for failing to comply with a condition imposed by the OCC and representations made

by the bank at the time it acquired a securities subsidiary. The condition and representations required the bank to ensure that the securities subsidiary did not market securities in a manner that would mislead customers regarding whether the securities were insured by the Federal Deposit Insurance Corporation or guaranteed by either the bank or the securities subsidiary. By failing to comply with the condition and representations, the bank failed to adhere to OCC standards on retail nondeposit investment sales contained in OCC Banking Circular 274.

### **Fiduciary Activities**

In the fiduciary area, SCP drafted a letter that concluded, for the first time, that a national bank collective investment fund (CIF) can require withdrawals in amounts below a specified amount to be made in cash, and withdrawals in amounts at or above that specified amount to be made in kind. The division also drafted a letter that found, for the first time, that a national bank may charge different management fees to CIF participants, commensurate with the amount and types of services it provides to participants, where the fees meet the requirements of the reasonableness standard of 12 CFR 9.18(b)(9) and each participant retains a proportionate interest in the CIF's underlying assets as required by 12 CFR 9.18(b)(3).

### **Investment Securities**

In the investment securities area, SCP prepared a letter that stated, for the first time, that a national bank may purchase an interest in an insurance company separate account that in turn will invest in bank-eligible securities. Although the insurance company holds the securities in the separate account in its own name, it holds those securities for the benefit of the account holders. The benefits of owning bank-eligible securities in the separate account pass through to the investing banks, and a guarantee provided by the insurance company protects the banks against loss in the value of their investment.

The division also prepared two letters finding that national banks may purchase as loans, securities issued by affiliates of private mortgage insurers. The securities are debt securities bearing a variable interest rate linked to the performance of the mortgage loans that the lender originated, and the mortgage insurer insured. The securities provide market-based incentives to banks to provide better performing mortgage loans to the mortgage insurer. The letter cautions that national banks must ensure that purchases of the securities comply with all applicable federal and state laws, including Real Estate Settlement Procedures Act and applicable consumer protection statutes.

## **Authority of Bank Subsidiary to Underwrite Municipal Revenue Bonds**

Securities and Corporate Practices provided legal analysis and prepared two decisions that conditionally approved separate applications by two national banks permitting their operating subsidiaries to underwrite and deal in municipal revenue bonds, under authority of 12 CFR 5.34(f). The decisions were similar to the OCC's decision in 1997 approving the application for this activity by Zions National Bank (Conditional Approval No. 262 (Dec. 11, 1997)). In these decisions, the OCC allowed operating subsidiaries to engage in activities other than those permitted for a parent national bank under 12 CFR part 5, as revised in 1996.

### **Bank Structure**

The SCP division assisted in preparing a conditional approval letter allowing a national bank located in Missouri to amend its bylaws to elect the corporate governance provisions of Missouri law, and to engage in a reverse stock split as provided by Missouri law. The reverse stock split would enable the bank and its holding company to convert to Subchapter S status, and would substantially reduce administrative expenses and simplify corporate procedures of the bank. The approval had four conditions: 1) the bank would elect the corporate governance provisions of Missouri law; 2) notwithstanding the corporate governance provisions of Missouri law, the bank would provide for dissenters' rights comparable to those rights available in 12 USC 214a-215a; 3) if any shareholders dissented from the reverse stock split, the bank would pay the cost of any appraisal that might occur; and 4) if the appropriate court declined to accept jurisdiction of an appraisal action, the bank would provide for binding arbitration to conduct an appraisal.

## **Bank Organization and Structure Department**

National banks must, by law and regulation, seek OCC approval for certain classes of corporate changes. These changes include new bank charters, conversions to national banks, corporate reorganizations, mergers, branches, bank relocations, operating subsidiaries, capital and subordinated debt issues, and bank acquisitions. Most licensing requests are reviewed and decided in the licensing units located in the six district offices and in Washington, D.C. (federal branches and agencies file with International Banking and Finance). Complex issues are forwarded to the Bank Organization and Structure (BOS) Department in Washington, D.C., for analysis and decision by senior management. The department establishes policies and procedures for the OCC's processing of corporate applications from national banks, reviews and makes recommendations on applications that raise significant legal and policy issues, and

strives to maintain effective quality control and information systems that support decentralized licensing operations. The Bank Organization and Structure Department has three divisions: District/Large Bank Licensing, Licensing Policy and Systems, and Washington-Directed Licensing.

### **Application Volume and Decision Results**

Table 1 summarizes corporate application activity for 1998. The total number of applications filed with the OCC decreased from 2,886 in 1997 to 2,628 in 1998. This decline occurred in the number of branch, change-in-control, charter, conversion, operating subsidiary, merger, and reorganization filings received; however, capital and fiduciary powers filings increased. The 1998 count doesn't include 99 operating subsidiary filings that were effected through after-the-fact notices, compared to 92 after-the-fact notices in 1997.

From 1997 to 1998 new charter applications decreased by five to 75, but this number reflects a 34 percent increase from 56 applications in 1995. The OCC received 49 charter applications from independent groups during 1998. Of these, 41 were for full service banks, six for trust banks, and two for credit card banks. The other 26 charter applications received in 1998 were sponsored by existing holding companies. Of this group, 18 were for full service banks, seven for trust banks, and one for a credit card bank.

The OCC denied one application in 1998, compared to two in 1997. Of the 2,482 decisions, 48 were conditional approvals. Conditional approvals increased over 1997, when 42 of 2,910 decisions were conditionally approved.

Summaries of important corporate decisions for the previous quarter are published in each issue of the *Quarterly Journal*.

### **Processing Timeliness**

One measure of our effectiveness in processing corporate applications is the percentage of applications processed within target time frames. To ensure applications are processed in a timely manner, Bank Organization and Structure measures processing time using benchmark time frames for routine applications and for more complex applications. Processing timeliness varies with the volume and complexity of applications. These, in turn, vary with economic conditions and changes in banking law. Table 2 shows the time frame performance for the applications processed by the OCC in 1997 and 1998 (without including after-the-fact notices for subsidiaries in 1997 and 1998). The OCC generally meets target time frames for all application types. Deviations from these targets are primarily the result of application complexity, the need to acquire additional information or peak workload demands.

**Table 1— Corporate licensing activity in 1998**

	Applications received		1998 District decisions			1998 Washington decisions			Total 1998 decisions
	1997	1998	Approved	Conditionally approved	Denied	Approved	Conditionally approved	Denied	
Branches .....	1,771	1,566	1,499	1	0	28	1	0	1,529
Capital/Sub Debt .....	93	108	71	0	0	5	0	0	76
Change in Control .....	23	17	9	0	0	2	0	1	12
Charters .....	80	75	53	1	0	3	9	0	66
Conversions <sup>1</sup> .....	58	32	23	0	0	4	0	0	27
Federal Branches .....	1	1	1	0	0	0	0	0	1
Fiduciary Powers .....	24	40	31	0	0	0	0	0	31
Mergers .....	115	107	93	1	0	8	0	0	102
Relocations .....	243	236	217	0	0	2	0	0	219
Reorganizations .....	322	307	226	1	0	57	0	0	284
Stock Appraisals .....	5	8	0	0	0	4	0	0	4
Subsidiaries <sup>2</sup> .....	151	131	74	26	0	23	8	0	131
<b>Total .....</b>	<b>2,886</b>	<b>2,628</b>	<b>2,297</b>	<b>30</b>	<b>0</b>	<b>136</b>	<b>18</b>	<b>1</b>	<b>2,482</b>

Note: Approved decisions include no objections. Mergers include failure transactions where the national bank is the resulting institution.

<sup>1</sup> Conversions are conversions to national bank charters.

<sup>2</sup> Subsidiaries do not include 92 after-the-fact notices received in 1997 and 99 after-the-fact notices in 1998.

Source: Bank Organization and Structure, Comptroller of the Currency.

**Table 2— OCC Licensing actions and timeliness, 1997- 1998**

	Target time frame in days <sup>1</sup>	1997			1998			Annual change		
		Number of decisions	Within target		Number of decisions	Within target		Number of decisions	Within target	
			Number	Percent		Number	Percent		Number	Percent
Branches .....	45/60	1,772	1,762	99.4%	1,529	1,519	99.3%	- 243	- 243	0.1%
Capital/Sub Debt .....	30/45	82	71	86.6%	76	71	93.4%	- 6	0	6.8%
Change in control .....	NA/60	24	21	87.5%	12	12	100.0%	- 12	- 9	12.5%
Charters <sup>2</sup> .....		79	63	79.7%	66	54	81.8%	- 13	- 9	2.1%
Conversions .....	30/90	92	90	97.8%	27	26	96.3%	- 65	- 64	- 1.5%
Federal branches & agencies .....	NA/120	0	0	0.0%	1	1	0.0%	1	1	0.0%
Fiduciary powers .....	30/45	39	38	97.4%	31	31	100.0%	- 8	- 7	2.6%
Mergers .....	45/60	127	110	86.6%	102	96	94.1%	- 25	- 14	7.5%
Relocations .....	45/60	241	236	97.9%	219	218	99.5%	- 22	- 18	1.6%
Reorganizations .....	45/60	320	292	91.3%	284	261	91.9%	- 36	- 31	0.7%
Stock Appraisals .....	NA/90	3	1	33.3%	4	0	0.0%	1	- 1	33.3%
Subsidiaries .....	30/60	131	112	85.5%	131	85	64.9%	0	- 27	- 20.6%
<b>Total .....</b>		<b>2,910</b>	<b>2,796</b>	<b>96.1%</b>	<b>2,482</b>	<b>2,374</b>	<b>95.6%</b>	<b>- 428</b>	<b>- 422</b>	<b>- 0.4%</b>

Note: Most decisions (93 percent in 1997 and 94 percent in 1998) were decided in the district offices, International Banking and Finance, and Large Bank Licensing under delegated authority. Decisions include approvals, conditional approvals, and denials.

<sup>1</sup> Those filings that qualify for the "expedited review" process are subject to the shorter of the time frames listed. The longer time frame is the standard benchmark for more complex applications. New time frames commenced in 1997 with the adoption of the revised part 5. The target time frame may be extended if the OCC needs additional information to reach a decision, permits additional time for public comment, or processes a group of related filings as one transaction.

<sup>2</sup> For independent charter applications, the target time frame is 120 days. For holding-company-sponsored applications, the target time frame is 45 days for applications eligible for expedited review and 90 days for all others.

Source: Bank Organization and Structure, Comptroller of the Currency.



The OCC's regulation governing all corporate applications, 12 CFR 5, establishes an "expedited review" process for certain applications from banks that are well capitalized, have a CAMELS rating of 1 or 2, have a CRA rating of "satisfactory" or better, and are not subject to an OCC formal enforcement action. Changes made to 12 CFR 5 shortened target time frames beginning in 1997. In addition, for some routine transactions, OCC approval is no longer required.

The time frames performance for application processing was consistent for 1998 and 1997, after significant improvements from 1995. To provide consistent comparisons with prior years results, the statistics have been adjusted for regulatory and processing changes. In 1995, the OCC met target time frames on 88 percent of the applications it decided. In 1996, on an adjusted basis, the OCC met target time frames on 90 percent of the applications it decided. In 1997, under the revised regulation, performance continued to improve. Even with shorter time frames, the OCC met its targets approximately 96 percent of the time. In 1998, the OCC again met target time frames approximately 96 percent of the time.

### District/Large Bank Licensing Division

The District/Large Bank Licensing (D/LBL) Division oversees all district and large bank licensing operations with a goal of enhancing effective licensing operations. The division, through licensing managers in each district office and large bank licensing, has decision authority for all licensing applications not requiring decision through the Washington-Directed Licensing Division in headquarters. The D/LBL division's responsibilities include monitoring actual operating performance for the six district and large bank licensing units, ensuring the effectiveness and efficiency of existing operations, and exploring new programs for improving licensing operations.

Significant developments during 1998 included the following:

- The licensing survey checks the quality of service provided to banks filing corporate applications. A survey was sent to each bank that filed a corporate application, except for large banks and a few mid-size banks which, due to application volume, were surveyed on a quarterly basis. Applicants were asked to rate the OCC's quality of service on a scale of 1 to 5, with 1 being outstanding, 3 neutral, and 5 significantly deficient.
- The survey results for 1998 show that 96 percent of applicants responding gave the OCC excellent marks (ratings of 1 or 2) for the way their applications were processed.

- The average rating for each of five service categories follows:

Service category	Rating
Timeliness of decision .....	1.20
Appropriateness of filing location/contact person ..	1.24
Knowledge of OCC contact .....	1.21
Professionalism of OCC staff .....	1.13
Overall rating of service .....	1.18

- Timeliness is an important determinant of efficiency in licensing operations and is one of several measures that the D/LBL division used to monitor performance. Time frame performance overall was excellent with approximately 96 percent of all licensing applications decided within established time frames. Exceptions (cases that were not decided within established time frames) were generally those with substantive legal or policy issues, such as the sale of insurance, CRA protests, interstate banking, electronic banking, year-2000 problems, or other significant, unique, or precedent-setting activities.
- The division conducted a study of applications processing designed to determine "best practices" and opportunities to further streamline efficiency and consistency in licensing operations. As a result, new streamlined procedures for processing branches and relocations applications was implemented. Similar processing procedures will be implemented for other types of filings as the study progresses.
- The first Licensing Staff Conference was completed, successfully bringing together all district and headquarters licensing staff for presentations and discussions of many banking issues involved in licensing applications ranging from CRA and subprime lending to Y2K and electronic banking. Training was conducted in group dynamics and enhancing communications.

### Licensing Policy and Systems Division

The Licensing Policy and Systems Division (LP&S) develops and implements general policies and procedures for the corporate activities of the OCC. The division also implements the OCC's licensing quality assurance program and maintains databases, such as the Corporate Activities Information System, and the Institution Database, and develops systems and reporting capabilities for the department.

Significant projects during calendar 1998 included the following:

- The Licensing Policy and Systems Division devoted substantial resources to publication of 22 of the 24 booklets that collectively comprise the *Comptroller's Corporate Manual*, which explains the OCC's policies to form a new national bank, enter the national banking system, and effect structural changes and corporate expansion. The manual standardizes OCC procedures for processing corporate filings to bring consistency to decision-making and record keeping. The comprehensive revision incorporates numerous statutory, regulatory, and policy and procedural changes. It replaced the three-volume version issued in January 1992. Concurrent with its issuance in booklet form, the manual was added to the OCC's Web site in a searchable, downloadable format.
- Using the Corporate Activities Information System and Institution Database, LP&S continued to provide the OCC's Communications Division with licensing and structure information to respond to requests made under the Freedom of Information Act. Many of those requests involved providing information concerning: branches located in specific geographic locations (e.g., by zip code or county); branches opened or closed within a specific geographical location during a specific time period; *de novo* charters within a state for a specific time period; and mergers within a certain state for a specific time period. Additionally, LP&S provided licensing and structure information used to respond to Congressional and press inquiries.
- OCC Advisory Letter 98-1 issued January 16, 1998 is currently under revision. The revised advisory letter clarifies that the OCC has determined that a wide range of corporate activities has the potential to divert resources from year-2000 readiness and systems integration considerations. Further, the revision clarifies OCC policy, regarding transaction applicability, by stating that any corporate transaction that has the potential to significantly affect year-2000 readiness or presents systems integration considerations will receive additional scrutiny. The revision provides examples of significant activity. The revision also discusses application review standards. Finally, the revision introduces supplemental filing requirements, a new corporate tool for use in banks rated "year 2000 less than satisfactory."
- The Licensing Policy and Systems Division coordinated development and publication of *A Guide to Tribal Ownership of a National Bank*, a complement to the *Comptroller's Corporate Manual*. It was designed to help federally recognized Indian tribes explore entry into the national banking system by establishing or acquiring control of a national bank. It was added to the OCC's Web site in August when it was released at an interagency-sponsored tribal conference in Washington, "Building Economic Self-Determination in Indian Communities" conference. Division staff at the conference spoke to many tribal representatives interested in learning more about chartering national banks.
- The division continued to work closely with the FDIC in 1998 to resolve differences that arose in connection with charter and deposit insurance applications. The division provided advice to FDIC staff as they drafted revisions to their corporate regulations and the deposit insurance policy statement (effective October 1998) to minimize differences in the two application processes and, thereby, reduce burden to the public.
- In December of 1998, the OCC's Executive Committee approved the development of a new corporate application processing system (Corporate View). The new system has four critical elements: electronic capture of applications, development of smart system processing to facilitate application review, integration of "Consolidated Reference Guide" (CRG), and easy ad hoc query and reporting. Current plans call for the implementation of a graphical user interface for the Corporate Activities Information System, electronic capture of corporate applications, development of a relational data base for easy ad hoc query, and development of an institution data warehouse/data mart in 1999. The requirements for the smart system and CRG will be developed during 1999 and developed/implemented during 2000 and 2001.
- During the second half of 1998, LP&S served as project manager for a team effort to develop the format for reviewing and proposing any needed changes to the processing of an application. The initial effort focused on expedited branch application filings. The revisions developed by the team resulted in a shortened form to be used to review, document, and approve the transaction. This format was devised considering an evaluation of risk involved, processing efficiency, and future suitability with the developing computer system, Corporate View.
- Licensing Policy and Systems participated in an interdepartmental group created to define parallel banking groups, to identify specific risks and licensing issues for national banks involved with parallel banking groups, and to explore actions for ongoing supervision. In general terms, parallel banks are U.S.-domiciled banks that share common ownership with

a foreign bank. It is anticipated that guidance on the processing of licensing transactions involving parallel banking groups will be placed into a BOS memo and then into the appropriate booklets of the *Comptroller's Corporate Manual*. Information on what constitutes a parallel owned banking group, associated risks, and ongoing supervision will be placed in the draft "Related Organizations" booklet of the *Comptroller's Handbook*.

- The division served as BOS representative to the Related Organizations Handbook Working Group to develop a handbook section for the *Comptroller's Handbook* for examiners. The Working Group was lead by Bank Supervision Policy, Licensing Policy and Systems provided the operating subsidiary background and supervisory guidance for this booklet based on the part 5 regulation and the operating subsidiary experience with corporate filings.
- During 1998, LP&S led the Federal Financial Institutions Examination Council (FFIEC) Interagency Working Group's effort that resulted in the December 1998 publication of the first "Interagency Bank Merger Act Application" form for uniform use among the four banking agencies. As the group's leader, LP&S led the effort which revised the terminology, reduced the financial information required, revised the community needs and CRA collections, and eliminated the previously required legal opinion. Each agency collects different supplemental information as an attachment. The OCC and OTS collect information regarding CRA commitments made by the target institution to community organizations or similar entities and whether the resulting bank will assume those obligations. The OCC's Web site is used to distribute this revised form.

## Washington-Directed Licensing Division

The Washington-Directed Licensing (W-DL) Division, formerly Corporate Activity, coordinates the processing of corporate applications that are considered to be novel, complex, or controversial. The division provides recommendations to OCC senior management with respect to the disposition of applications not delegated to the district, large bank, or international processing units. Upon request from shareholders dissenting to a merger or consolidation involving national banks, the division also conducts bank stock appraisals.

The W-DL division contributes summaries of selected corporate decisions to every issue of the *Quarterly Journal*. In addition, decisions that represent new or changed policy or present issues of general interest to the public or the banking industry are published monthly in the OCC publication, *Interpretations and Actions*. In 1998, the following

corporate decisions were of particular importance because they were precedent setting or otherwise represented issues of importance. The decision documents for these approvals were published in *Interpretations and Actions*.

## Interstate Decisions

The Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 ("Riegle- Neal Act") became effective June 1, 1997, allowing banks to establish interstate branching operations in states that did not pass legislation opting-out of interstate banking. Only the states of Texas (until September 1999) and Montana (until September 2000) opted out. In 1998, the OCC approved 61 Riegle-Neal mergers for 44 banking companies. In addition, the OCC approved a four interstate branch applications for three companies. As of December 31, 1998, there were approximately 120 national banks with interstate branching networks. Some of the more significant precedential decisions are discussed below.

### A. Riegle-Neal Transactions

The OCC approved the first merger decision under the Riegle- Neal Interstate Banking and Branching Efficiency Act involving Texas as a host state. This decision granted approval for a national bank headquartered in New Mexico to merge into its affiliate headquartered in North Carolina, pursuant to 12 USC 215a-1, 1828(c), and 1831u(a). The acquiring bank operated branches in 13 states and the District of Columbia, and the target bank operated branches across the New Mexico border in El Paso, Texas. Even though Texas had "opted out" of Riegle- Neal Act mergers, it was a Riegle- Neal host state in this case because the target bank had previously relocated from Texas to New Mexico, retaining its Texas branches. The resulting bank is authorized to retain and operate the branches of both merging banks under 12 USC 36(d) and 1831u(d). [Corporate Decision No. 98-07, dated January 15, 1998]

The OCC authorized a national bank located in California to purchase a New York City branch of a Korean bank, pursuant to authority in the Riegle- Neal Act, 12 USC 36(d) and 1831u. The decision is notable because it is the first purchase by a national bank of a branch from a foreign bank, and because of the transcontinental nature of the transaction. [Corporate Decision No. 98-42, dated September 4, 1998]

### B. Trust Activities

The OCC granted approval for a national bank headquartered in Missouri to merge into its affiliated national bank headquartered in North Carolina, pursuant to 12 USC 215a. This decision addresses the ability of banks undergoing interstate mergers to carry on their fiduciary activities. The

resulting bank is also authorized to exercise fiduciary powers in Missouri under 12 USC 92a, 36(f)(2), and 215a(e). The OCC concluded that the Missouri statutes that might otherwise prohibit the acquiring bank from exercising fiduciary powers and appointments in Missouri are preempted by federal law. [Corporate Decision No. 98-16, dated March 4, 1998]

### ***C. 215a Merger***

The OCC approved the merger of a national bank headquartered in Texas with and into an affiliated national bank headquartered in North Carolina pursuant to 12 USC 215a. The North Carolina bank already had three branches in El Paso, Texas, by virtue of an earlier interstate main office relocation and a merger of the relocated bank into it, so it was "located" in Texas for purposes of section 215a mergers with other banks located in Texas. The decision demonstrates that this authority for section 215a mergers is independent of the Riegle-Neal Act merger provisions. The decision also analyzes the Texas opt-out and finds that it does not meet the Riegle-Neal Act requirements for an effective state opt-out. The Texas state banking commissioner subsequently sued, but the OCC and the bank prevailed in federal district court and the state did not appeal. [Corporate Decision No. 98-19, dated April 2, 1998]

## **Structure Decisions**

### ***A. Charters***

The OCC granted conditional approval for a native American tribe to establish a national bank in Palm Springs, California. The approval is conditioned on compliance by the tribe with its commitment letter. The letter addresses federal banking agency jurisdiction and the applicability of federal banking laws to the tribe and activities and transactions between the tribe and the bank, and includes an irrevocable waiver of sovereign immunity signed by the tribe and its affiliates with respect to the applicability of federal banking laws to the new bank. [Conditional Approval No. 272, dated March 5, 1998]

### ***B. Minority Investments***

The OCC conditionally approved the establishment of an operating subsidiary to acquire and hold a noncontrolling minority interest in a limited liability company (LLC). The LLC will engage in the business of merchant credit and debit card processing. The LLC will also lease and install point-of-sale terminals. The LLC's ownership of the point-of-sale terminals that will be leased to merchants raised the issue of whether those terminals should be treated as branches of the bank subject to the provisions of 12 USC

36. The letter concludes, however, that since the LLC-owned point-of-sale terminals will be generally available to customers of other banks, and will provide similar services on substantially similar terms and conditions for the accounts of the bank's customers as well as accounts held by noncustomers, those terminals will not be considered branches of the bank. [Conditional Approval No. 269, dated January 13, 1998]

The OCC granted conditional approval to a national bank to expand the activities of an existing operating subsidiary to acquire a noncontrolling investment in an LLC that would originate and support automated teller machines to serve casino customers. [Conditional Approval No. 285, dated August 14, 1998]

The OCC granted conditional approval to a national bank to expand the activities of an existing operating subsidiary, and thereby make a noncontrolling, minority investment in an LLC that would provide credit and debit card transaction processing services and check guaranty and verification services to casinos and other similar establishments. [Conditional Approval No. 287, dated September 4, 1998]

The OCC conditionally approved the establishment of an operating subsidiary to acquire and hold a noncontrolling interest in an LLC that will acquire, develop, and manage real property for use as bank premises. [Conditional Approval No. 298, dated December 15, 1998]

### ***C. Technology***

The OCC granted conditional approval to a national bank to establish an operating subsidiary to act as a certification authority to enable subscribers to generate digital signatures that verify the identity of a sender of an electronic message. The certification process will also enable subscribers to be certain that communications received have not been altered during transmission. As part of ongoing supervision of the activity, the OCC expects the bank to implement and maintain a risk management system that identifies, measures, monitors, and controls the material risk of the activity. Accordingly, the OCC's approval is conditioned on the bank's submission of a final blueprint of its information system. The OCC also expects the bank, which is well capitalized and well managed, to maintain adequate capital to support the activity. [Conditional Approval No. 267, dated January 12, 1998]

The OCC granted conditional approval to a new community national bank that, in addition to traditional banking services, will provide personal computer banking and electronic bill payment service (PC banking). Final approval is subject to supervisory conditions related to security controls and independent system testing that the bank would need to complete before commencing its proposed PC

banking. Subsequent to this approval, the OCC issued Bulletin 98-38 (August 24, 1998) that provides bankers with guidance on how to identify, measure, monitor, and control risks arising from the use of retail PC banking. The bulletin also sets forth the OCC's expectations of bank management and boards of directors when implementing and operating PC banking systems. [Conditional Approval No. 279, dated June 18, 1998 (amends Conditional Approval No. 278, dated October 14, 1997)]

The OCC granted conditional approval to fourteen national banks to acquire indirectly, minority, noncontrolling ownership interests in a corporation through an LLC. The national banks each own a minority, noncontrolling membership interest in the LLC either directly or through wholly owned operating subsidiaries. The corporation provides electronic commerce services and financial application software and related products, including electronic home banking, bill payment and related services to financial institutions. The approval was granted on conditions the OCC routinely applies to national banks making minority investments. This decision represents an important further step in the evolution of electronic banking services. [Conditional Approval No. 289, dated October 2, 1998]

#### ***D. Change in Bank Control***

The OCC posed no objection to a notice of change in bank control filed on behalf of a native American tribe to acquire control of a national bank in Missouri. The OCC's no-objection relies on the tribe's representations and commitments regarding federal banking agency jurisdiction and federal banking law applicability and regarding activities and transactions between the tribe and bank. [Conditional Approval No. 274, dated April 17, 1998]

#### ***E. Reverse Stock Split***

The OCC conditionally allowed a national bank located in Missouri to amend its bylaws to elect the corporate governance provisions of Missouri law, and to engage in a reverse stock split as provided by Missouri law. The reverse stock split will enable the bank and its holding company to convert to Subchapter S status, and will substantially reduce administrative expenses and simplify corporate procedures of the bank. The approval has four conditions: 1) the bank will elect the corporate governance provisions of Missouri law; 2) notwithstanding the corporate governance provisions of Missouri law, the bank will provide for dissenters' rights comparable to those rights available in 12 USC 214a-215a; 3) if any shareholders dissent from the reverse stock split, the bank will pay the cost of any appraisal that may occur; and 4) if the appropriate court declines to accept jurisdiction of an appraisal action, the bank will provide for binding arbitration to conduct an appraisal. [Conditional Approval No. 299, dated December 17, 1998]

## **Expanded Activities Decisions**

### ***A. Insurance***

The OCC approved several applications by national banks to establish operating subsidiaries to reinsure a portion of the mortgage insurance on loans originated or purchased by the banks or their lending affiliates. The approvals rely on OCC Interpretive Letter No. 743 (October 17, 1996), which concluded that the activity is generally permissible under the National Bank Act because this activity is part of, or incidental to, the business of banking. Similar approvals were granted to six other national banks in 1997. [Corporate Decision No. 98-10, dated January 28, 1998; Corporate Decision No. 98-15, dated February 19, 1998; Corporate Decision No. 99-04, dated December 23, 1998]

The OCC granted conditional approval for a national bank to establish a wholly owned subsidiary that would acquire and hold a 70 percent noncontrolling limited partner interest in a limited partnership that will engage in the business of selling title insurance as agent. The approval is granted on conditions that the partnership will engage only in activities permissible for national banks; that the bank's subsidiary will prevent the partnership from engaging in activities not permissible for national banks or withdraw from the partnership; that the bank will account for its investment under the cost method; and that the partnership will be subject to OCC supervision, regulation, and examination. [Conditional Approval No. 275, dated April 22, 1998]

The OCC granted conditional approval for a national bank to establish an operating subsidiary to hold, as a general partner, a 50 percent interest in a limited liability general partnership engaged in title insurance agency, real estate appraisal, loan closing, and other activities in connection with certain loans made by the bank or its lending affiliates. The services described are either expressly authorized or considered to be part of or incidental to the business of banking as they are provided in connection with the making of mortgage loans under 12 USC 24(Seventh) and 371. The approval was granted on conditions that the partnership will engage only in activities permissible for national banks; that the bank's subsidiary will prevent the partnership from engaging in activities not permissible for national banks or withdraw from the partnership; that the bank will account for its investment under the equity method; the partnership will be subject to OCC supervision, regulation, and examination; and that the partnership will ensure compliance with applicable requirements of the Real Estate Settlement Procedures Act (RESPA). [Conditional Approval No. 276, dated May 8, 1998]

The OCC allowed a national bank operating subsidiary to underwrite and reinsure credit life insurance, credit disability insurance, and involuntary unemployment insurance

sold to customers that borrow from the bank and its lending subsidiaries. The decision concludes that underwriting and reinsuring credit insurance on subsidiaries' loans are part of the business of banking because credit-related insurance products assist bank customers in meeting loan obligations and are logical outgrowths of banks' lending authority. The letter also concludes that underwriting and reinsuring credit-related insurance on subsidiaries' loans are incidental to a bank's lending because they enhance a national bank's ability to receive repayment for its loan and promote the lending business by enabling loan customers to make timely repayments on their loans. [Corporate Decision No. 98-28, dated May 11, 1998]

The OCC approved applications to expand the activities of national banks' mortgage reinsurance operating subsidiaries to include reinsuring a portion of the mortgage insurance on loans serviced by the bank or the bank's lending affiliates. The OCC concluded in these decisions that the reinsurance of serviced loans is part of the business of banking because it is functionally equivalent to purchases of a loan participation in the serviced loans. The OCC also found mortgage reinsurance on serviced loans to be permissible as incidental to banking because it is convenient and useful to the mortgage banking business. [Corporate Decision No. 98-40, dated August 18, 1998; Corporate Decision No. 99-02, dated December 11, 1998]

### ***B. Real Estate***

The OCC approved, for the first time, the performance of real estate appraisals for occasional retail customers who request one, even though there is no associated loan transaction. National banks have long been permitted to perform real estate appraisals in connection with their own real estate loans, or real estate loans made by other financial institutions. This decision is based on the "excess capacity" doctrine, which permits national banks to serve nonbanking customers in order to make optimum use of facilities or personnel that were acquired in good faith for banking purposes. The decision notes that national banks are permitted to use their excess capacity in many lines of business, and that such transactions are expected to make up only a very small percentage of the bank's appraisal business. [Corporate Decision No. 98-25, dated April 1, 1998]

The OCC approved, for the first time, the performance of title abstracting for other financial institutions in connection with their real estate loans, as well as abstracting for the occasional retail customer, even though there is no associated loan transaction. The OCC has previously approved the performance of real estate title abstracting, which consists of researching and summarizing the title

history of real property, in connection with a national bank's own real estate lending. The decision is based on banks' correspondent services authority, as well as the "excess capacity" doctrine. [Corporate Decision No. 98-26, dated April 21, 1998]

The OCC approved the joint ownership by two national banks of a subsidiary to engage in the leasing of personal property. Some of the leased property consisted of manufacturing facilities that included the associated real property. Although the ownership of real property by national banks is severely limited by 12 USC 29, the decision finds that such site leasing is incidental to permissible personal property leasing and is therefore authorized by the OCC's regulations at 12 CFR part 23. This decision provides a further example of "site" or "facility" leasing, that is, the ownership of real property incidental to permissible leasing of personal property approved in Interpretive Letter No. 770, dated February 10, 1997. [Corporate Decision No. 98-35, dated June 10, 1998]

### ***C. Securities***

The OCC conditionally approved separate applications by two national banks permitting their operating subsidiaries to underwrite and deal in municipal revenue bonds, under authority of 12 CFR 5.34(f). The decisions are similar to the OCC's decision in 1997 approving the application for this activity by Zions National Bank (Conditional Approval No. 262, December 11, 1997). [Corporate Decision No. 98-48, dated October 20, 1998; Conditional Approval No. 297, dated December 9, 1998]

### ***D. Other***

The OCC approved, for the first time, a national bank's acquisition of an operating subsidiary providing Medicare and Medicaid benefits counseling to consumers. The subsidiary also provides services to state government agencies by collecting insurance premium payments from, and disbursing insurance benefit payments to, qualifying individuals under Title XXI of the Social Security Act (health insurance for children). This decision demonstrates how such activities are logical outgrowths of the traditional banking activities of financial planning and counseling, claim and payment processing, and acting as a finder. [Corporate Decision No. 98-13, dated February 9, 1998]

The OCC allowed a national bank operating subsidiary to own working interests in natural gas leases, when such ownership is the equivalent of secured lending. In this case, the bank had extended credit to a company that owned and operated oil and natural gas leases. The operating subsidiary purchased working interests in some

of these leases. It thereby qualified for certain tax credits, which were applied to repayment of the company's loan. The decision demonstrates that the bank was advancing funds to the borrower, receiving a security interest in natural gas reserves, and receiving repayment of the funds advanced from sale of the natural gas. Viewing the substance of the transaction, this was not an impermissible ownership of real property, but a secured loan. Although the OCC has approved similar arrangements in the past in which trusts were used to hold lease or production payment interests, this is the first decision in which an operating subsidiary was used. [Corporate Decision No. 98-17, dated March 23, 1998]

The OCC approved a national bank's acquisition of a one-half ownership interest in a company providing payment and information processing services for the health care industry. The investment enables the bank to offer health care providers an integrated package of banking and information services, such as receivables financing, payroll processing, credit card processing, cash management, and health insurance administrative services. This is another example of the increasing role that national banks may be expected to play in the field of health care, building on their traditional payment and financial information processing activities. [Conditional Approval No. 282, dated July 31, 1998]

The OCC allowed a national bank's operating subsidiary to provide employee benefit and compensation advisory services to small business customers and, on an as-needed basis, some incidental human resources consulting and career counseling to the customers' employees. The decision letter opines that employee benefit and compensation services are a form of financial advice and are therefore part of the business of banking. The letter further opines that the operating subsidiary may use the excess capacity doctrine to permit human resources and career counseling. [Corporate Decision No. 98-51, dated November 30, 1998]

### **Community Reinvestment Act Decisions**

In January 1997, in connection with the implementation of the revised Part 5, OCC released new procedures for handling Community Reinvestment Act (CRA) issues in applications, including how adverse comments from the public would be handled. Those procedures provide, for example, that applications will be removed from the new expedited review procedures when adverse comments are received so that the applications are not approved merely through the passage of time. They also provide that prior to acting on a CRA-covered application, OCC will investigate issues raised, and, if appropriate, will use examiners independent of the most recent examination of the bank. Further, they provide that the OCC will describe the ad-

verse comments and the results of the OCC investigation in public decision documents on the applications.

The procedures provide for OCC meetings with commenters to assure that OCC understands their concerns, and provide that OCC will accept comments at any time, even after the close of public comment periods, if to do so will not unnecessarily delay action on the application. OCC followed these policies on all CRA-covered applications received during 1998.

During 1998, the OCC received 26 adverse comments from the public on eight pending applications. In all these cases that initially qualified for expedited review, the OCC removed them from the expedited review procedures. The OCC investigated and responded publicly to the issues raised in each case. The OCC also reviewed and addressed publicly CRA issues raised in other applications. The decisions on applications presenting CRA issues, listed in Table 3, were published in the OCC's monthly *Interpretations and Actions* and are also available on the OCC's Web site.

The OCC approved a national bank headquartered in Pennsylvania to merge with a national bank headquartered in North Carolina pursuant to 12 USC 215a-1 and 1831u. The bank headquartered in Pennsylvania operated branches in three states, and the bank headquartered in North Carolina operated branches in 11 states and the District of Columbia. The resulting bank was permitted to retain and operate the offices of both banks as branches under 12 USC 36. During the review of the application, the North Carolina bank committed to reporting to the OCC on branch closings and to conduct a review of banking hours in Philadelphia and Delaware counties in Pennsylvania to respond to concerns raised with respect to the adequacy and flexibility of service hours in light of the needs of community residents. It also represented to the OCC that it intends to meet jointly with a community organization in Philadelphia and with the Pennsylvania Secretary of Welfare, to attempt to develop a mechanism to tie Pennsylvania's electronic benefit transfer program accounts to the bank's checking and savings accounts. [Corporate Decision No. 98-21, dated April 15, 1998]

The OCC conditionally approved an in-state branch for a national bank. The decision concludes that the bank had CRA performance weaknesses and requires the bank, prior to opening the branch, to submit a plan for OCC approval containing, among other things, plans to increase lending penetration within its assessment area responsive to community credit needs and plans to increase its level of qualified investments and community development services. The bank is required to implement and adhere to the approved plan. These conditions are enforceable under 12 USC 1818. [Conditional Approval No. 277, dated May 27, 1998]

**Table 3— List of 1998 decisions presenting Community Reinvestment Act issues**

Bank and city	<i>Interpretations and Actions</i> date	Document number
Star Bank, National Association, Cincinnati, OH .....	Jan. 1999	CRA Decision No. 82
Vectra Bank, Colorado, NA, Denver, CO .....	Jan. 1999	CRA Decision No. 83
Plains National Bank, Lubbock, TX .....	Jan. 1999	CRA Decision No. 84
NationsBank, NA, Charlotte, NC .....	Dec. 1998	Corporate Decision No. 98-50
SouthTrust Bank, NA, Birmingham, AL .....	Nov. 1998	Corporate Decision No. 98-46
NationsBank, NA, Charlotte, NC .....	Oct. 1998	Corporate Decision No. 98-44
Mercantile Stores National Bank, Baton Rouge, LA...	Aug. 1998	Corporate Decision No. 98-38
First of America, NA, Kalamazoo, MI .....	Aug. 1998	CRA Decision No. 81
BankBoston, NA, Boston, MA .....	Jul. 1998	Corporate Decision No. 98-36
National City Bank of Indiana, Indianapolis, IN .....	Jul. 1998	Corporate Decision No. 98-37
First Union National Bank, Charlotte, NC .....	Jul. 1998	Conditional Approval No. 280
United National Bank, Monterey Park, CA .....	Jun. 1998	Conditional Approval No. 277
First Union National Bank, Charlotte, NC .....	May 1998	Corporate Decision No. 98-21
FirstMerit Bank, NA, Akron, OH .....	May 1998	Corporate Decision No. 98-23
NationsBank, NA, Charlotte, NC .....	Feb. 1998	Corporate Decision No. 98-07
Fleet National Bank, Providence, RI .....	Feb. 1998	Corporate Decision No. 98-12
NationsBank, NA, Charlotte, NC .....	Feb. 1998	Corporate Decision No. 98-11
Star Bank, National Association, Cincinnati, OH .....	Feb. 1998	Corporate Decision No. 98-09

The OCC conditionally approved a national bank's proposal to acquire a large finance company as an operating subsidiary. The OCC considered a range of issues pertaining to the subsidiary's lending practices, particularly concerns that credit applicants could be "steered" to higher-cost credit on a discriminatory basis, and that lower-cost credit might not be made available to all customers of the organization. The OCC's approval of the proposal is subject to a number of conditions, including: 1) that the bank report on its progress in implementing its plan to establish uniform loan policies and standards for home equity loans- including pricing policies, underwriting criteria, and credit rating standards- for the bank, the subsidiary, and all other bank entities offering such loans; and 2) that the bank comply with its representations relating to the limited circumstances under which customers would be referred from the bank to the subsidiary, and vice versa. These conditions are enforceable under 12 USC 1818. The decision document also notes that the subsidiary will become subject to OCC examination for safety and soundness, fair lending, and consumer protection, and that the acquisition will increase the bank's responsibilities under the CRA. [Conditional Approval No. 280, dated June 29, 1998]

The OCC approved an application by a national bank headquartered in Massachusetts with branches in Connecticut, to establish an additional branch in Connecticut. The OCC received adverse public comments con-

cerned primarily with the bank's closing of a branch in Connecticut. The OCC's most recent evaluation of the bank's performance under the CRA rated the bank as having an outstanding record. The OCC conducted a review of the bank's branch openings and closings in Connecticut and found no net change in the distribution of branches between low- and moderate-income (LMI) and other income areas and no evidence of a systematic movement of branches from urban to suburban areas as alleged in the public comments. [Corporate Decision No. 98-36, dated June 19, 1998]

The OCC approved a national bank to acquire the in-state branches of an affiliated bank. Two organizations had filed letters with the Federal Reserve Board, in connection with the merger of the banks' parent holding companies, expressing concern with the CRA performance of the banks and their subsidiaries, and with the OCC's evaluation of those banks' records. The concerns were focused on the level of lending to minority borrowers and borrowers in LMI communities. Using examiners not involved in the prior examinations of the banks, the OCC reviewed the banks' lending to minorities and in LMI areas. The OCC concluded that the banks' records were consistent with approval of the transaction. [Corporate Decision No. 98-37, dated June 23, 1998]

The OCC approved the merger of eight national and state banks (located in Wisconsin, Iowa, Minnesota, Illinois, and Florida) into an affiliated national bank headquartered in



Ohio pursuant to 12 USC 215a- 1 and 1831u. The resulting bank was permitted to retain and operate the offices of the merged banks as branches under 12 USC 36. Three comment letters were filed with the FRB, in connection with the merger of the banks' parent holding companies, expressing concern with the CRA performance of certain of the banks. The concerns were focused on the level of conventional mortgage lending to minority and LMI borrowers in Wisconsin, the level of agricultural lending and lending in rural areas in Wisconsin, and the reasonableness of the Illinois bank's CRA assessment area. Using examiners not involved in the prior examinations of the banks, the OCC investigated the concerns and concluded that the banks' records were consistent with approval of the transaction. [CRA Decision No. 82, dated December 24, 1998]

The OCC approved the consolidation of a national bank headquartered in Colorado and an affiliated federal savings bank headquartered in Colorado and having a branch in New Mexico. The resulting consolidated national bank will be headquartered in New Mexico and have branches in Colorado. The transactions to complete the consolidation are authorized under 12 USC 215a- 1 and 1831u, and comply with the provisions of the Oakar Amendment (12 USC 1815(d)(3)). The resulting bank was permitted to retain and operate the offices of the merged banks as branches under 12 USC 36. The approval relies upon the applicant's commitment to establish a branch in Grand Junction, Colorado, to help improve a noted weakness in the federal savings bank's geographic distribution of loans to moderate income individuals in that community. The approval also relies upon the applicant's representation that the resulting bank will honor an existing commitment by the national bank to a community organization concerning the provision of mortgage loans to LMI persons under a special lending program. [CRA Decision No. 83, dated December 28, 1998]

The OCC approved a national bank to establish an in-state branch. In the most recent CRA performance evaluation of the bank, the OCC had noted investment performance

weaknesses. The approval relies upon the bank's commitment to develop a CRA action plan designed to correct the investment performance weaknesses, and deliver that plan to the OCC within 60 days for review and approval. [CRA Decision No. 84, dated December 30, 1998]

### Change in Bank Control Act

The Change in Bank Control Act of 1978 (CBCA) requires that parties who wish to acquire control of a national bank through purchase, assignment, transfer or pledge, or other disposition of voting stock notify the OCC in writing 60 days prior to the proposed acquisition (unless a filing is required under the Bank Merger Act or the Bank Holding Company Act).

Any party acquiring 25 percent or more of a class of voting securities of a national bank must file a change in bank control notice. In addition, if any party acquires 10 percent or more (but less than 25 percent), that party must file a change in bank control notice under certain conditions. The acquiring party must also publish an announcement of the proposed change in control to allow for public comment.

The CBCA gives the OCC the authority to disapprove changes in control of national banks. The OCC's objective in its administration of the CBCA is to enhance and maintain public confidence in the national banking system by preventing identifiable, serious, adverse effects resulting from anti-competitive combinations or inadequate financial support and unsuitable management in national banks. The OCC reviews each notice to acquire control of a national bank and disapproves transactions that could have serious harmful effects. If the notice is disapproved, the disapproval letter contains a statement of the basis for disapproval. The OCC's actions for 1998 are reflected in Table 4. As reflected in the table, the OCC received 17 change in bank control notices in 1997, down from 24 in 1996. Of the 17 notices received in 1998, 13 were acted upon, five were withdrawn, and one was disapproved.

**Table 4— Change-in-Bank-Control-Act notices processed at the OCC districts and headquarters, 1988- 1998**

Year	Received	Acted on	Not disapproved	Disapproved	Withdrawn
1998 .....	17	12	11	1	5
1997 .....	24	24	24	0	0
1996 .....	17	15	13	0	2
1995 .....	15	16	16	0	0
1994 .....	15	16	15	1	0
1993 .....	28	30	21	5	4
1992 .....	30	29	21	4	4
1991 .....	20	15	6	6	3
1990 .....	31	42	32	5	5
1989 .....	55	55	48	3	4
1988 .....	45	42	34	4	4

Source: Bank Organization and Structure, Comptroller of the Currency.

## Community Development Division

The Community Development Division (CDD) provides expert advice and counsel to the Comptroller and senior management on community and economic development policy and procedures for national banks to facilitate their participation in the emerging domestic market within banking; policy guidance and expertise on community development financial institutions (CDFIs), including community development banks; educational initiatives for national banks on emerging community development issues; expertise and resource development for related OCC units and policy makers; training for examiners and the community reinvestment development specialists who provide direct community development technical assistance to banks and their community partners; and expert advice and assistance to the Comptroller in his or her role as a member of the board of directors of the Neighborhood Reinvestment Corporation (NRC). The division also represents the agency on internal and external task forces and committees.

During 1998, Community Development completed a broad range of community and economic development initiatives to provide guidance to national banks and examiners. This initiative covered community development lending and investing, banker education, examiner training, and enhanced communication of information both internally and externally.

Community Development planned and organized a one-day national forum in Washington, D.C., on "Small Business Banking Issues" that permitted leading experts to address a broad range of emerging topics relating to small business banking. The OCC brought together a diverse group of bankers, small business owners, and other interested participants to discuss issues that affect small business lending and investment and how banks can better assist small business through new approaches to financing that recognizes the dynamic changes that continue to occur in this market.

The division coordinated the production of its free quarterly newsletter, *Community Developments*. It provides almost 3,000 subscribers, including national banks and other interested persons, with highlights of innovative bank community development programs, regulatory updates on community and economic development issues, and related national news on federal and state programs. The newsletter responds to requests from bankers and others for more detailed articles about community economic development initiatives. The newsletter offers bylined articles written by external bank and other experts and OCC employees.

Another publication that the division developed and published is *The Single-Family Affordable Housing Market: Trends and Innovations*. The publication captures the pre-

sentations given at the July 1997 Affordable Housing Symposium, held in Philadelphia. Topics include the state of the affordable mortgage lending market, affordable mortgage underwriting standards, risk management, and risk mitigation strategies.

In addition, Community Development approved several novel national bank investments this year. The first, City First Bank of D.C., N.A., (Washington, D.C.) was approved to open as a full service national bank with a community development focus. (Banks with a community development focus operate with and maintain an ongoing community development focus and are authorized to have other national banks provide them equity financing under the provisions of the Community Development Corporation, community development projects, and other public welfare investments (12 CFR 24).) The CDD also authorized two existing national banks to convert their mission to one with a community development focus: they were Unity National Bank (Houston) and New York National Bank (New York City). (Banks with a community development focus are eligible to receive investments from national banks and to apply to the Treasury Department's CDFI Fund for designation as community development financial institutions (CDFIs).)

The division also approved a bank's request for advance approval to make an investment in an amount not to exceed the full 10 percent of the bank's capital and surplus to fund an innovative service. Mercantile Bank N.A. received approval to invest in the Mercantile Bank Community Development Corporations (MCD) to operate a new operating division called the Missouri Tax Credit Clearinghouse. The bank acts as a "finder" by bringing together investors and tax credit developers to act as a financial intermediary; buying and reselling certain types of transferable state tax credits; and acting as advisor providing financial, transactions, and tax planning advice to purchasers of tax credits and to assist them in structuring, arranging, executing, and managing tax-credit-related transactions. The MCD is engaged in two types of activities. It makes investments designed to promote the public welfare through various types of tax credit projects, and it will offer services intended to facilitate other investors' making investments designed primarily to promote the public welfare in tax credit projects. This opinion defined the criteria and the standards for determining the portion of a bank's investment that must serve the public welfare to be considered an investment that "primarily promotes the public welfare."

During 1998, CDD approved 159 national bank community development corporation and community development project investments totaling \$2.5 billion. Since the inception of the OCC's Community Development Corporations (CDCs) and Community Development Project Program (CD

projects) in 1965, the OCC has approved more than 1,300 national bank investments in community development corporations and community development projects. Many of those investments were in one-time projects that have been completed, or were in single-purpose CDCs whose missions have been accomplished. National banks and their community partners have invested \$8.2 billion in all part 24 CD investments.

The division developed and implemented the Community and Economic Development home page on the OCC Internet. The Web site enables bankers, examiners, community development partners, and others to access all of the OCC's community and economic development initiatives. The Web site also provides their users with selected links to other government agencies, national intermediaries, and other external sources. More than 200 subscribers have registered in the Community and Economic Development database to receive time-sensitive information and major notices of events on a monthly basis in a broadcast fax. Its premier broadcast fax was issued to the subscribers of the registration database in September.

Community Development supported the former Comptroller and Acting Comptroller in their capacity as a statutory member of the board of directors and chairman of the Neighborhood Reinvestment Corporation, and chairman of the NeighborWorks Campaign for Homeownership. The division also served as OCC liaison for the Department of the Treasury Consumers Affairs Council, on the executive committee for the SEC Government Small Business Capital Formation annual forum, as a member of the National Brownfields Partnership steering committee, and as a member of the OCC's National Credit Committee.

The CDD continues in its leadership role for the Native American Working Group (NAWG). The NAWG produced and released *A Guide to Tribal Ownership of a National Bank* in August 1998. The guide provides guidance on issues that arise as tribes apply federal banking law and regulations in Indian country. The NAWG also worked with a number of tribal leaders and other native Americans interested in chartering national banks.

The division provided community development lending and investments training to examiners in three sessions of the Bank Supervision School. The division director and other staff members also were presenters at more than 12 conferences and seminars.

In September 1998, the OCC participated in the annual SEC Government Small Business Capital formation annual forum in Chicago. About 150 attendees participated in this forum that reviews issues related to small business capital formation and makes an annual report to Congress based on recommendation from the forum attendees.

In November, the CDD organized and held an affordable mortgage lending banker roundtable to exchange ideas about affordable mortgage lending among a small group of bankers and OCC officials. The roundtable provided bankers with an opportunity to share their experiences and ideas, project their expectations for the near future, and respond to questions about this product line and portfolio management. The roundtable also provided the OCC with an opportunity to learn about affordable mortgage lending practices and policies from financial institutions that play a leadership role in this market segment.

# ***Economic and Policy Analysis***

The Economic and Policy Analysis Department is composed of the Policy Analysis Division and the Economics Department, which consists of two divisions— Economic Analysis and Risk Analysis. The Economic and Policy Analysis Department is responsible for economic research and policy analysis on many issues facing the OCC; monitoring the financial health of the banking system to identify sources of risk; analyzing the determinants of bank competitiveness and risk-taking; evaluating the effects on OCC operations of changes in the regulatory environment; providing technical support to examiners in the assessment of banks' risk measurement methods and the use of statistical tools to assess fair lending compliance; and drafting congressional testimony for the Comptroller.

In April 1998, a new division— Policy Analysis— was established in Economic and Policy Analysis to help develop and explain major OCC public policy positions. It advises senior OCC officials about the regulation and operation of the financial services industry and develops proposals to address public policy issues raised by other agencies, Congress, and the public. The division provides policy analysis and advice on a variety of issues facing the OCC, analyzes the determinants of bank competitiveness and risk-taking, and drafts congressional testimonies for the Comptroller.

## **Policy Analysis Division**

The Policy Analysis Division prepared nine written statements and packages of briefing materials for the Comptroller and other senior officials' congressional appearances in 1998 in the following areas: financial modernization legislation; mergers; hedge funds; year-2000 progress for the banking industry; regulatory review (two); money laundering; financial privacy; and derivatives.

The Policy Analysis Division supported the Comptroller's Treasury-wide role as coordinator on electronic money issues, and chaired periodic meetings with senior Treasury officials to focus on E-commerce developments. The division worked as part of the Basle committee on Banking Supervision on a paper, Risk Management for Electronic

Banking and Electronic Money Activities, issued in March 1998, that forged a common understanding among the member Central Bank governors on the key questions posed by emerging banking and money activities. The staff gave numerous speeches at forums on technology, banking, and payments. The division also prepared a study on "Technological Innovation in Banking and Payments: Industry Trends and Implications for Banks," published in the Quarterly Journal, Vol. 17, No. 3 (September 1998).

## **Economics Department**

### **Economic Analysis Division**

In 1998, the Economic Analysis Division completed four reports on the condition and performance of the banking industry and provided numerous economic and bank condition presentations to community bank groups through outreach programs. The division undertook several research projects in 1998, including ongoing research on derivatives markets, bank structure issues, bank risk-taking and returns, early warning models, international bank exposures, emerging market economic and financial issues and risks, de novo chartering activity, contingent modeling of bank earnings volatility, and technology issues. Staff completed studies of the consumer market, energy markets, international trade issues and relationships, regional economic developments, credit-risk issues of Y2K, and health care industry developments and risks.

### **Risk Analysis Division**

Economists from the Risk Analysis Division provide technical expertise in applied quantitative economic modeling in examinations and in policy formulation. The group applies a sophisticated knowledge of quantitative methods to the evaluation of compliance and financial risks and to the analysis of supervisory policies addressing those risks. In 1998, Risk Analysis participated in 74 on-site examinations in eight subject areas: fair lending; interest rate risk; credit scoring; derivatives trading and pricing; mortgage banking; credit portfolio management; asset management; and internal models to comply with the market risk rule (currently being applied to six internationally active banks).

# ***International Affairs***

## **International Banking and Finance Department**

The International Banking and Finance Department (IB&F) supports OCC supervision of the federal branches and agencies of foreign banks in the United States and maintains OCC's relationships with the international financial community and foreign supervisory organizations. The department provides policy advice and technical expertise and analysis to OCC on international banking and financial matters, including foreign regulatory trends, country risk evaluation, and the evolution of foreign financial systems, institutions, and supervisory and regulatory processes.

The IB&F department represents the OCC on interagency projects and activities affecting international banking supervision policy and regulation. These activities include cooperation with federal and state bank supervisors on specific initiatives in the supervision, licensing, and regulation of foreign banks operating in the United States, particularly the Interagency Foreign Banking Organization Supervision Program.

The department supports the OCC's Federal Branch Program, which supervises, licenses, and regulates federal branches and agencies of foreign banks in the United States. In that regard, IB&F provides supervisory policy and procedural support and guidance on the supervision of federal branches and agencies. The department also serves as the focal point for information on foreign banks that operate federal branches and agencies and coordinates communications with those banks' home country supervisory authorities and their senior management.

In its role as staff coordinator of OCC's participation in the Basle Committee on Banking Supervision, and the Joint Forum on Financial Conglomerates, IB&F works with other OCC groups in support of U.S. efforts to achieve international harmonization of financial services supervision. The

department coordinates and provides technical support to the Treasury Department on the G-7 summit process.

The department also conducts research and analysis on international economic and bank supervision and regulatory matters and supports OCC examiners and other staff engaged in domestic and international supervisory activities as well as assisting in the development and implementation of OCC banking supervisory and regulatory policies and procedures.

The IB&F department also develops, analyzes, and distributes information on the global banking and financial environment in which national banks operate; the banking, financial, and financial services supervisory systems in the major countries of the world; and foreign banks that operate federal branches and agencies in the United States. As the OCC representative on the Interagency Country Exposure Review Committee (ICERC) of U.S. bank regulatory agencies, IB&F develops and analyzes information on and assesses risk in international lending, including the evaluation of transfer risk associated with exposures to countries experiencing difficulty servicing their external debt. Through IB&F, the OCC provides the permanent ICERC secretariat and rotates as chair of the ICERC every third year. In 1997, the IB&F department initiated a project to revise the ICERC process.

The IB&F department is the OCC's focal point for communications with foreign supervisors to address policy and operational issues. Toward the goal of enhancing supervisory coordination and information sharing, IB&F, in consultation with the law department's Counselor for International Activities, negotiates information sharing agreements with interested foreign supervisors. International Banking and Finance also acts as liaison, on a variety of issues related to global financial services supervision, between the OCC and the Department of the Treasury, International Monetary Fund, The World Bank, and other international organizations.

The IB&F staff coordinates requests from around the world to provide technical assistance. This assistance includes visits and training sessions hosted by IB&F staff in Washington as well as participation by OCC on technical assistance missions in the requesting country.

## **Public Affairs**

Public Affairs, headed by the senior deputy comptroller for Public Affairs, is composed of the Banking Relations and the Congressional Liaison divisions and the historian. In addition there are two departments: the Community Affairs Department, headed by the deputy comptroller for Community Affairs, including the Community Relations and the Minority and Urban Affairs divisions; and the Public Affairs Department, headed by the deputy comptroller for Public Affairs, comprising the Communications and Press Relations divisions.

### **Banking Relations Division**

The Banking Relations Division acts as liaison with bankers, state bankers associations, banking trade groups, and state bank supervisors.

The division provides advice to the Comptroller and senior policymakers and is responsible for identifying proposed regulatory and industry actions that relate to OCC activities. It formulates specific approaches for ensuring that OCC's position is presented and that information is disseminated.

The division recommends new policies, concepts, and procedures to guide the OCC in its relationship with the banking industry. It prepares and directs the preparation of briefing materials for use in meetings with OCC officials and banking industry groups and assists with preparation of testimony or presentations for the Comptroller and senior officials. The division maintains state-by-state in-depth analyses of banking legislation and major issues including existing, proposed, and potential legislation.

Banking Relations also helps district offices develop effective outreach programs with bankers and state banking trade associations. The division coordinates and hosts in-house meetings with state banking trade associations and is responsible for planning and organizing off-site "Meet the Comptroller" seminars (Chicago and Dallas) attended by chief bank executives and OCC's Executive Committee to discuss changes in the banking industry.

### **Congressional Liaison Division**

The Congressional Liaison Division is responsible for the OCC's relations with members of Congress, and congressional committees, subcommittees, and staff.

The division provides analysis and advice to the Comptroller and senior OCC policymakers on congressional activities that affect or could affect the OCC, the national banking system, or the financial services marketplace. It

also offers guidance on potential congressional reaction to OCC actions.

As part of its responsibilities, the division maintains regular contact with congressional members, committees, subcommittees, and staff to promote effective communication and ensure that OCC's interests are represented.

The division is the focal point of congressional inquiries, including requests for testimony, staff studies, or other support. It assists in the preparation of testimony, comments, briefings, and staff studies relating to congressional actions, as well as responses to constituent inquiries. The division provides any other necessary liaison and information services relating to congressional and legislative matters.

## **Community Affairs Department**

The deputy comptroller for Community Affairs heads the Community Affairs Department, which oversees the operations of the Community Relations and Minority and Urban Affairs divisions. The deputy comptroller is responsible for the agency's contacts with national and regional community leaders with consumer and community organizations.

### **Community Relations Division**

The Community Relations Division is responsible for the OCC's outreach and external relations with consumer and community organizations, particularly national non-profit public interest organizations that are concerned with community reinvestment and community development issues.

The division provides analysis and advice to the Comptroller and OCC's senior management on consumer and community organization interests and activities which affect- or could affect- the OCC, the national banking system, or the relationship of national banks to their local communities. It also offers guidance on potential consumer and community reaction to OCC actions, monitors the overall direction of public interest advocacy directed at the financial services marketplace, and formulates strategies for ensuring that OCC positions are clearly and appropriately communicated to these sectors.

In addition, the division recommends new policies and procedures to guide the OCC in its relationship with the public interest sector. It assists in the preparation of speeches, testimony, or other presentations for the Comptroller and senior OCC officials before consumer and community organizations. Finally, the division is responsible for organizing and coordinating the Comptroller's formal and informal

outreach with community and consumer organizations at "Meet the Comptroller" meetings and similar forums.

In 1998, the Community Relations Division:

- Organized a special "Comptroller's Forum" on access to financial services and community development finance for outgoing Comptroller Eugene Ludwig and incoming Acting Comptroller Julie Williams; the session was attended by 45 key national and regional community reinvestment advocates, community development practitioners, and consumer protection proponents;
- Organized two district "Meet the Comptroller" meetings with community leaders in Chicago and Los Angeles;
- Organized three outreach luncheons for the Comptroller with Washington-based national organizations on the Community Reinvestment Act, fair lending, and community development;
- Organized 10 "one-on-one" meetings between the Comptroller and national community organization leaders;
- Organized three briefings or focus groups of external organizations for the Community and Consumer Policy Department regarding the Large Bank CRA Examination project;
- Was represented on the OCC's Financial Access Steering Committee;
- Provided assistance and information for the Acting Comptroller's keynote addresses at three conferences sponsored by housing and minority organizations;
- Represented the OCC at two dozen national conferences sponsored by community and consumer organizations which promote partnerships with national banks;
- Represented the OCC at two meetings of the Administration's Interagency Workgroup on Microenterprise Development;
- Furnished information to the OCC's community reinvestment and development specialists (CRDs) on national and regional community organizations.

## **Minority and Urban Affairs Division**

The Minority and Urban Affairs (MUA) Division is responsible for overseeing the OCC's external relations with national and regional civil rights and minority-based organizations, particularly those that are concerned with access to financial services. The division is responsible for the OCC's outreach to this sector, and provides counsel to the Comptroller and senior OCC management on the bank-

ing and financial service interests of these organizations, and offers guidance to management on the concerns that these organizations have relating to the OCC's supervision of the national banking system.

In 1998, MUA planned and organized Banking on Minority Business forums in Chicago; Charlotte, North Carolina; and Providence, Rhode Island. The forums encouraged dialogue for overcoming barriers to small business lending between bankers, representatives of the minority small business community, and leaders of minority business and community organizations. The discussions also focused on building mutually profitable relationships in the future.

In the spring 1998, the division continued and expanded a successful year-round National Minority Internship Program to provide minority students the opportunity to work in a professional environment and acquire skills to enhance their marketability for future job opportunities. Minority and Urban Affairs recruited 26 talented interns from a diverse group of organizations, including the Hispanic Association of Colleges and Universities, Washington Internships for Native Students, Howard University, INROADS, Inc., the National Association for Equal Opportunity in Higher Education, and the Washington Center for Internships and Academic Seminars.

At the request of national leadership of the NAACP, MUA coordinated and organized a training program with the NAACP on fair access to credit and the Community Reinvestment Act (CRA) for NAACP affiliates across the country. The division worked in conjunction with the National Office of the NAACP and the Department of Justice to coordinate the training.

In an effort to raise awareness of the OCC and its mission, MUA organized and coordinated several exhibitions at conferences sponsored by the NAACP, National Council of LaRaza, HACU, Congressional Black Caucus, National Urban League and National Council of Hispanic Employment Managers. Visitors to OCC's exhibit booths demonstrated an interest in OCC's employment opportunities and information on access to financial services, CRA, and fair lending issues.

During the first quarter 1998, MUA hosted a National Minority Leaders Meeting for the Comptroller. The meeting included senior executive representatives from the National Urban League, National Association for the Advancement of Colored People, League of United Latin American Citizens, National Council of LaRaza and Organization for a New Equality. The purpose of the meeting was to prepare minority organizations for OCC's leadership transition and solicit suggestions for the OCC's efforts to promote continued progress in community development finance and access to financial services within the national banking system.

## Public Affairs Department

The deputy comptroller for Public Affairs heads the Public Affairs Department, oversees the operations of the Communications and Press Relations divisions, and is responsible for managing internal and external communications activities. The deputy comptroller is charged with bringing an external perspective to all agency issues and works closely with executives to identify issues and activities that need to be communicated inside and outside the agency. In addition, the deputy comptroller provides advice and counsel to the Comptroller and Executive Committee on media relations and communications activities and policies.

The divisions overseen by the deputy comptroller for Public Affairs serve as the agency's main external contact and communicate the OCC's mission and activities to the public. Department activities include identifying and developing communication strategies for major OCC initiatives and proposals and implementing those strategies.

### Communications Division

The Communications Division provides publications support and information services for the agency. Specifically, the division:

- Provides writing, editorial, and production support for all agency publications, including the *Quarterly Journal*, the *Comptroller's Handbook*, the *Comptroller's Corporate Manual*, and the *Comptroller's Handbook for Compliance*, as well as OCC policy issuances such as advisory letters, alerts, and bulletins.
- Plans approaches to disseminating information and designs appropriate vehicles for specific messages.
- Responds to inquiries from the public about the agency's mission and activities.
- Develops and maintains the agency's Internet presence (<http://www.occ.treas.gov>), which offers quick access to agency materials.
- Uses appropriate technological means to improve and maintain internal and external communication for the OCC.
- Processes all initial requests filed under the Freedom of Information and Privacy acts.
- Operates and oversees the Public Information Room, which offers easy access to the agency's public documents.
- Certifies copies of bank corporate documents.

The Communications Division's 1998 accomplishments reflect a continued emphasis on public access to information. The Public Information Room offers the public quick access to agency documents, including press releases, issuances, CRA evaluations, comment letters on proposed regulations, securities filings, enforcement actions, and similar information. The room is located on the first floor and is open to walk-in visitors from 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 3:30 p.m. During 1998, the public information staff handled 3,716 requests for information within 24 hours.

In 1998, the Automated Information unit began a multi-year project to re-launch the OCC's Internet site (<http://www.occ.treas.gov>). Beginning by giving the site a new, more graphical look in 1998, the project will include a complete re-evaluation of the site's structure in light of the needs and demands of its target audience. The site gives the public quick access to a wide range of OCC documents. The site continues to provide access to actual CRA evaluations as well as a searchable database of the CRA ratings; a database of community groups, with an opportunity for groups to register; proposed regulations; issuances and press releases, including major speeches and congressional testimony; and a variety of publications, including consumer assistance materials, the *Weekly Bulletin* (a report of agency corporate applications and actions), and the monthly *Interpretations and Actions*. Significant additions to the publications available on the site included the *Comptroller's Corporate Manual*, and an on-line edition of this publication. During 1998, about 2.2 million pages of information were made available through this medium.

The Publications and Editorial Services personnel provide editorial and writing assistance to other OCC units and publish OCC publications. New external publications for 1998 included eight new booklets in the *Comptroller's Handbook*; one booklet in the *Comptroller's Handbook for Asset Management*; *Banking Laws for Examiners*; and the four-book set of *Banking Regulations for Examiners*. In addition, the Communications Division continued to produce many periodicals and series including the *Quarterly Journal* and *Interpretations and Actions*. Other important special publications include the *1998 Survey of Credit Underwriting Practices*; *The Report of the Consumers Electronic Payments Task Force*; *1997 Chief Financial Officer's Annual Report*; *A Guide to Tribal Ownership of a National Bank*; and *The Single-Family Affordable Housing Market: Trends and Innovations*.

In 1998, the Publications and Editorial Services unit continued to produce a monthly employee newsletter and to distribute OCC issuances and other policy papers to national bank examiners and national banks.



Under the authority delegated by the Comptroller, the department is responsible for making initial determinations on requests for records of the OCC under the Freedom of Information Act and the Privacy Act of 1974. In 1998, the Public Disclosure unit received almost 22,000 such requests, 18,000 of which were handled through the OCC Information Line, a fax-on-demand system (releasing 170,000 pages of information).

The division is also responsible for providing certified copies of national bank corporate documents. By the end of 1998, the Public Disclosure unit issued almost 1,900 certificates for the following seven types of certificates: corporate existence, charter, corporate title change, articles of association, merger, fiduciary powers, and declaration of insolvency.

### **Press Relations Division**

The Press Relations Division works to increase public understanding and awareness of the OCC's mission by pro-

viding news media relations support to the agency and senior management. Specifically, the division:

- Prepares and issues press announcements on agency actions or policies, including new regulations, supervision guidance, new publications, statistical information (such as the quarterly report on banks' derivatives activities), major conferences, and speeches by senior OCC officials.
- Develops briefing materials and support information, such as questions and answers, for agency initiatives in which there is press interest, such as the OCC's bank supervision activities to ensure that national banks will be prepared for the year-2000 date change.
- Supports agency staff in dealing with news media inquiries, by providing advice, counsel, and training.
- Responds to press inquiries on all the OCC's activities, policies, and initiatives.

# ***Administration and Chief Financial Officer***

## **Equal Employment Programs Division**

The Equal Employment Programs (EEP) Division is responsible for ensuring that every Office of the Comptroller of the Currency (OCC) employee works in an environment free of inappropriate exclusionary practices without regard to race, color, national origin, sex, religion, age, sexual orientation, or disability. The EEP division is committed to honoring these principles and assuring that the OCC complies with federal policy to provide equal opportunity for all persons, prohibit unlawful discrimination and retaliation, and maintain a continuing affirmative employment program.

In 1998, the EEP division developed OCC's Affirmative Employment Programs (AEP) Plan (Plan) in compliance with the Equal Employment Opportunity Commission's (EEOC) requirement that agencies' major operating components prepare an annual AEP Plan. The Plan identified new and/or continuing problems or barriers to the hiring, advancement, and retention of minorities and women. The Plan update establishes AEP objectives and action items to be achieved during fiscal year (FY) 1999. Also, the EEP in 1998 designed standard procedures for OCC's equal employment opportunity (EEO) awards program, and recognizing several individuals with special act awards for their outstanding contributions in EEO and affirmative employment (AE).

In 1998, the EEP division hired a national Hispanic employment program manager (HEPM) to address the under-representation of Hispanics at the OCC. The HEPM also recruited collateral duty HEPMs to help in the development of the OCC's Hispanic Employment Programs (HEP). The combined efforts of these individuals resulted in a HEP Action Plan to address the issues of Hispanic under-representation, employee development, and retention. The HEP Action Plan advocates the fair administration of OCC's policies and programs and promotes the concept of equal employment opportunity.

In 1998, the EEP division increased employee and manager awareness of and participation in OCC's EEO programs, by continuing to provide EEO and AE training to all employees. The OCC began briefing new employees about their EEO rights and responsibilities as outlined in 29 CFR 1614, and instituted sexual harassment training sessions during the new hires orientation. Also, five OCC employees participated in EEP's rotational program. To assist OCC in its recruitment efforts, the EEP division participated in several of OCC's conferences and job fairs.

In addition, the OCC has sought to strengthen its EEO complaints process through the use of a pilot mediation program. Mediation will be restricted to the federal EEO complaints process. The EEP division has developed a mediation brochure and questions and answers to communicate this program to OCC employees.

## **Administration Department**

### **Management Improvement Division**

The Management Improvement Division serves as the OCC's liaison with the U.S. General Accounting Office (GAO) and the Department of the Treasury's Office of Inspector General (OIG). Management Improvement facilitates audits, evaluations, and investigations and assures that appropriate corrective action is taken by the OCC. In addition, the division coordinates OCC reporting for compliance with government-wide program initiatives such as the federal activities inventory.

During 1998, both the OIG and the GAO focused their attention on the OCC's efforts to ensure that the banking industry and its own internal systems were ready for the Year 2000 date change. In addition, they both reviewed the OCC's implementation of the requirements of the Government Performance and Results Act. Action has been taken in response to the auditors' recommendations and suggestions.

Audit reports issued by the GAO covered a variety of banking issues with input from the OCC. They included such topics as regulatory burden, unsolicited loan checks and high loan-to-value real estate lending, money laundering, electronic banking, financial institutions in North Carolina, native American housing, ATM fees, the closure of a particular national bank, and risk-based capital. In addition, the OCC was included in surveys that enabled the GAO to report back to Congress on the cost of responding to congressional inquiries about campaign finance, federal user fees, and program evaluation. None of the audit reports issued during the year contained recommendations for the OCC to implement.

During 1998, the OIG issued an additional audit report. It reported the results of a review of examinations conducted in 1996 of small banks for compliance with the revised regulations flowing from the Community Reinvestment Act. Action has been taken to implement the recommendations.

The Management Improvement Division also handles requests from the inspectors general of other agencies who are interested in comparative information or opinions from the OCC related to programs that they are auditing.

## **Human Resources Division**

The Human Resources Division provides the delivery of services in the areas of recruitment and staffing, compensation and benefits, employee relations, performance management, and personnel systems and analysis. During 1998, Human Resources embarked on a major effort to recruit a large number of experienced individuals for bank examiner positions. This included developing new processes and materials and incorporating new uses of technology, particularly the Internet, into the recruitment effort. After the completion of our initial efforts, we reengineered the recruitment process to address customer concerns and improve the effectiveness and efficiency of the program. We also continued to explore new approaches to hiring to meet the OCC's needs for a contingent workforce, such as the use of contractors, reemployed annuitants, fellowships, and the hiring of experts and consultants. In addition, we contracted to have a job analysis conducted and a new knowledge test developed so that we can return to the college campus for entry-level recruitment.

The division reorganized in 1998 to meet new needs created by OCC's move to two lines of business. A Large Banks unit was established to provide human resources services to large bank management and staff. A new position, BSOP liaison, was created to serve as a focal point between BSOP and Human Resources and ensure consistency in the application of policies and procedures throughout BSOP.

In 1998, the division initiated a long-term total compensation review. The purpose of this review is to ensure that our compensation program aligns with the OCC's strategy, direction, and pay philosophy. We contracted with the Hay Group, a highly regarded human resources consulting organization, to conduct the study.

We began work on the first phase in the modernization of OCC's human resources information system using an integrated system developed by PeopleSoft. This phase involves automating the core processing of personnel action requests and building the interface to the NFC payroll system.

We continued to develop flexible work arrangements in order to minimize the hardship associated with travel and relocation, reduce costs, and take advantage of changes in technology that enable "virtual" work arrangements.

## **Organizational Effectiveness Division**

The Organizational Effectiveness Division works consistently with all levels of OCC management to create a positive work environment that fosters teamwork, collaboration, and diversity through a broad array of processes.

The division provides training, consulting, and individual coaching in a wide variety of areas, including diversity management, business process improvement, team effectiveness, team building, executive coaching, group and meeting facilitation, change management, benchmarking, and best practice studies.

During 1998, Organizational Effectiveness worked closely with the new management team to fully operationalize the new management structure. The division provided guidance to managers at both the district and field office levels in setting up effective work processes and group dynamics with their team members. In addition, Organizational Effectiveness consulted with each of the district management teams to help them foster team work and strategic alignment within their districts. As the teams became fully functional, individual managers identified areas in need of development and the division began providing executive coaching to these managers.

The OCC's cultural audit continued to provide fertile ground for identifying organizational improvements during 1998. Employees expressed the need for effective forums to support them in their career advancement efforts. In response, Organizational Effectiveness established affinity groups including the Black Employees Forum, the Gay and Lesbian or Bisexual Employees group, and assisted in establishing the Hispanic Employees Working Group. Through these affinity groups, employees requested access to mentoring relationships, and Organizational Effectiveness has partnered with Continuing Education to develop a structured pilot mentoring program. In further support of cultural change efforts, the list of expected employee behaviors developed through the cultural audit formed the basis for the multi-rater feedback system that was incorporated into the performance management pilot program developed and implemented by the unit.

Development of leaders was a key focus for 1998. Organizational Effectiveness partnered with Continuing Education to participate in a nationwide benchmarking study on leadership development. The study findings lead to OCC's work in identifying leadership competencies. They also resulted in the unit's work with senior management to create a process that identified and celebrated those managers who most effectively demonstrated the desired leadership behaviors of people management, collaboration, and change management. Organizational Effectiveness has also expanded the leadership development efforts into the creation of an executive coaching consulting practice for OCC management.

## **Administrative Services Division**

In 1998, the Administrative Services Division (ASD) devoted significant efforts to enhance customer services.

The division used the business process review (BPR) method to assess existing processes for leasing and construction of a field location; reservation of a headquarters building conference room; and, development of documents leading to the award of a government contract. Improvements that reduce time and effort have been incorporated into each of these activities.

Other significant activities completed in 1998 included: conducting customer focus groups to obtain input on dining facility services; bench marking services in the real estate and building services division; and implementing procedures to provide a 24-hour work station supply delivery through an automated supply operation. ASD also implemented a centralized personnel security program and completed all necessary background investigations.

To ensure that OCC is ready for the year 2000, ASD developed an OCC Emergency Management Plan which included identification of OCC's core processes and development of business resumption guidelines. It also included contingency plans for IT and non-IT systems. Non-IT operating systems at all OCC facilities were evaluated for Y2K compliance as well as ASD's internal automated systems.

The ASD homepage went on-line in 1998 and included a variety of automatic features to provide quick access to its contents. Automated service request forms assisted online users through the request process for a variety of ASD services, such as building service requests. The automated Library reference request system played a major role in responding to over 7,000 reference requests in 1998.

The Acquisitions unit took numerous steps to increase the use of the Federal Impac Purchase Card by OCC units. The number of cards issued almost doubled in 1998, and purchase card dollars spent increased from \$3.9 million to \$6.9 million. Through the regular federal procurement process, the Acquisitions unit processed nearly 1,000 procurement requisitions, obligating over \$72 million.

The division provided guidance for OCC's educational outreach in Washington and the districts. Approximately 100 volunteers from the Washington office provided assistance to students in a Washington, DC elementary school, OCC's Partner-in-Education. As a national partner with the National Academy Foundation, OCC supported at least one academy of finance in each district.

## **Financial Services Division**

The Financial Services Division's mission is to maintain and manage OCC's financial resources, provide high quality financial services, and provide advice to senior man-

agement and managers throughout OCC to ensure that financial issues are considered in OCC decision making. Financial Services performs this through several key activities that include:

- Maintaining day-to-day operations of the accounting system, control of OCC's receipts and payments, management of cash and investments, and financial reporting;
- Managing design, development, enhancement, and implementation of financial systems;
- Facilitating the strategic plan process and our efforts related to the Government Performance Results Act;
- Formulating and executing OCC's operating plan and budget to ensure that resource usage and staffing reflect the OCC's four pillars and operating objectives and foster the efficient allocation of resources;
- Managing OCC's efforts related to the Government Performance and Results Act; and,
- Reporting internally and externally on OCC's resource usage, staffing, and available resources including forecasts of revenues and expenses that reflect changes in the national banking system.

During 1998, Financial Services continued efforts to improve its use of technology, institutionalize customer service, and improve communication concerning planning and financial matters throughout the OCC. At the same time, Financial Services continued to ensure maintenance of internal management controls on OCC's resources and effective management of OCC's financial resources. During 1998, Financial Services:

- Issued financial statements and met requirements for the Department of Treasury's Accountability Report. These efforts including coordinating the development and issuance of the Annual CFO Financial Statements.
- Coordinated the 1997 annual audit with the external auditors and received an unqualified opinion, without management points, for the fourth year in a row.
- Initiated a top to bottom review of Financial Services internal controls and processing procedures to revitalize the organization, define the system requirements for a modern financial system, and to ensure effective controls over OCC's resources. Internal control review is still ongoing and will result in improved financial processes at all levels in the division as well as a restructured organizational design to better serve OCC clientele.

- Completed an extensive review of the Comptroller's travel policies and issued new travel regulations.
- Implemented several new travel programs to mitigate the burden of the extensive travel requirements on examiners. These programs included a travel stipend for examiners who are away from home more than 35 percent of their time.
- Implemented a public transportation subsidy program for office staff throughout the OCC.
- Provided effective revenue management and issued the 1998 Notice of Fees. Implemented the surcharge on bank assessments for problem banks.
- Continued to integrate fully the planning, staffing, and budgeting processes. The OCC developed a Performance Plan that was fully compliant with the requirements of the Government Performance and Results Act (GPRA). OCC also issued its first Performance Report for 1997.
- Developed the 1999 budget using the strategic plan and the GPRA performance plan along with revenue estimates, which was approved by the Comptroller. The 1999 budget process represented the continued transition from traditional functional budgeting to program budgeting where our resource planning reflects a greater emphasis on intended results.

**Table 1— Comptrollers of the Currency, 1863 to the present**

No.	Name	Dates of tenure		State
1	McCulloch, Hugh	May 9, 1863	Mar. 8, 1865	Indiana
2	Clarke, Freeman	Mar. 21, 1865	July 24, 1866	New York
3	Hulburt, Hiland R.	Feb. 1, 1865	Apr. 3, 1872	Ohio
4	Knox, John Jay	Apr. 25, 1872	Apr. 30, 1884	Minnesota
5	Cannon, Henry W.	May 12, 1884	Mar. 1, 1886	Minnesota
6	Trenholm, William L.	Apr. 20, 1886	Apr. 30, 1889	South Carolina
7	Lacey, Edward S.	May 1, 1889	June 30, 1892	Michigan
8	Hepburn, A. Barton	Aug. 2, 1892	Apr. 25, 1893	New York
9	Eckels, James H.	Apr. 26, 1893	Dec. 31, 1897	Illinois
10	Dawes, Charles G.	Jan. 1, 1898	Sept. 30, 1901	Illinois
11	Ridgely, William Barret	Oct. 1, 1901	Mar. 28, 1908	Illinois
12	Murray, Lawrence O.	Apr. 27, 1908	Apr. 27, 1913	New York
13	Williams, John Skelton	Feb. 2, 1914	Mar. 2, 1921	Virginia
14	Crissinger, D.R.	Mar. 17, 1921	Mar. 30, 1923	Ohio
15	Dawes, Henry M.	May 1, 1923	Dec. 17, 1924	Illinois
16	McIntosh, Joseph W.	Dec. 20, 1924	Nov. 20, 1928	Illinois
17	Pole, John W.	Nov. 21, 1928	Sept. 20, 1932	Ohio
18	O'Connor, J.F.T.	May 11, 1933	Apr. 16, 1938	California
19	Delano, Preston	Oct. 24, 1938	Feb. 15, 1953	Massachusetts
20	Gidney, Ray M.	Apr. 16, 1953	Nov. 15, 1961	Ohio
21	Saxon, James J.	Nov. 16, 1961	Nov. 15, 1966	Illinois
22	Camp, William B.	Nov. 16, 1966	Mar. 23, 1973	Texas
23	Smith, James E.	July 5, 1973	July 31, 1976	South Dakota
24	Heimann, John G.	July 21, 1977	May 15, 1981	New York
25	Conover, C.T.	Dec. 16, 1981	May 4, 1985	California
26	Clarke, Robert L.	Dec. 2, 1985	Feb. 29, 1992	Texas
27	Ludwig, Eugene A.	Apr. 5, 1993	Apr. 4, 1998	Pennsylvania
28	Hawke, John D., Jr.	Dec. 8, 1998	-	New York

**Table 2— Senior Deputy and Deputy Comptrollers of the Currency, 1863 to the present**

No.	Name	Dates of tenure		State
1	Howard, Samuel T.	May 9, 1863	Aug. 1, 1865	New York
2	Hulburd, Hiland R.	Aug. 1, 1865	Jan. 31, 1867	Ohio
3	Knox, John Jay	Mar. 12, 1867	Apr. 24, 1872	Minnesota
4	Langworthy, John S.	Aug. 8, 1872	Jan. 3, 1886	New York
5	Snyder, V.P.	Jan. 5, 1886	Jan. 3, 1887	New York
6	Abrahams, J.D.	Jan. 27, 1887	May 25, 1890	Virginia
7	Nixon, R.M.	Aug. 11, 1890	Mar. 16, 1893	Indiana
8	Tucker, Oliver P.	Apr. 7, 1893	Mar. 11, 1896	Kentucky
9	Coffin, George M.	Mar. 12, 1896	Aug. 31, 1898	South Carolina
10	Murray, Lawrence O.	Sept. 1, 1898	June 29, 1899	New York
11	Kane, Thomas P.	June 29, 1899	Mar. 2, 1923	District of Columbia
12	Fowler, Willis J.	July 1, 1908	Feb. 14, 1927	Indiana
13	McIntosh, Joseph W.	May 21, 1923	Dec. 19, 1924	Illinois
14	Collins, Charles W.	July 1, 1923	June 30, 1927	Illinois
15	Steams, E.W.	Jan. 6, 1925	Nov. 30, 1928	Virginia
16	Awalt, F.G.	July 1, 1927	Feb. 15, 1936	Maryland
17	Gough, E.H.	July 6, 1927	Oct. 16, 1941	Indiana
18	Proctor, John L.	Dec. 1, 1928	Jan. 23, 1933	Washington
19	Lyons, Gibbs	Jan. 24, 1933	Jan. 15, 1938	Georgia
20	Prentiss, William, Jr.	Feb. 24, 1936	Jan. 15, 1938	Georgia
21	Diggs, Marshall R.	Jan. 16, 1938	Sept. 30, 1938	Texas
22	Oppegard, G.J.	Jan. 16, 1938	Sept. 30, 1938	California
23	Upham, C.B.	Oct. 1, 1938	Dec. 31, 1948	Iowa
24	Mulroney, A.J.	May 1, 1939	Aug. 31, 1941	Iowa
25	McCandless, R.B.	July 7, 1941	Mar. 1, 1951	Iowa
26	Sedlacek, L.H.	Sept. 1, 1941	Sept. 30, 1944	Nebraska
27	Robertson, J.L.	Oct. 1, 1944	Feb. 17, 1952	Nebraska
28	Hudspeth, J.W.	Jan. 1, 1949	Aug. 31, 1950	Texas
29	Jennings, L.A.	Sept. 1, 1950	May 16, 1960	New York
30	Taylor, W.M.	Mar. 1, 1951	Apr. 1, 1962	Virginia
31	Garwood, G.W.	Feb. 18, 1952	Dec. 31, 1962	Colorado
32	Fleming, Chapman C.	Sept. 15, 1959	Aug. 31, 1962	Ohio
33	Haggard, Holis S.	May 16, 1960	Aug. 3, 1962	Missouri
34	Camp, William B.	Apr. 2, 1962	Nov. 15, 1966	Texas
35	Redman, Clarence B.	Aug. 4, 1962	Oct. 26, 1963	Connecticut
36	Watson, Justin T.	Sept. 3, 1962	July 18, 1975	Ohio
37	Miller, Dean E.	Dec. 23, 1962	Oct. 22, 1990	Iowa
38	DeShazo, Thomas G.	Jan. 1, 1963	Mar. 3, 1978	Virginia
39	Egerston, R. Coleman	July 13, 1964	June 30, 1966	Iowa
40	Blanchard, Richard J.	Sept. 1, 1964	Sept. 26, 1975	Massachusetts
41	Park, Radcliffe	Sept. 1, 1964	June 1, 1967	Wisconsin
42	Faulstich, Albert J.	July 19, 1965	Oct. 26, 1974	Louisiana
43	Motter, David C.	July 1, 1966	Sept. 20, 1981	Ohio
44	Gwin, John D.	Feb. 21, 1967	Dec. 31, 1974	Mississippi
45	Howland, W.A., Jr.	July 5, 1973	Mar. 27, 1978	Georgia
46	Mullin, Robert A.	July 5, 1973	Sept. 8, 1978	Kansas
47	Ream, Joseph M.	Feb. 2, 1975	June 30, 1978	Pennsylvania
48	Bloom, Robert	Aug. 31, 1975	Feb. 28, 1978	New York
49	Chotard, Richard D.	Aug. 31, 1975	Nov. 25, 1977	Missouri
50	Hall, Charles B.	Aug. 31, 1975	Sept. 14, 1979	Pennsylvania
51	Jones, David H.	Aug. 31, 1975	Sept. 20, 1976	Texas
52	Murphy, C. Westbrook	Aug. 31, 1975	Dec. 30, 1977	Maryland
53	Selby, H. Joe	Aug. 31, 1975	Mar. 15, 1986	Texas
54	Homan, Paul W.	Mar. 27, 1978	Jan. 21, 1983	Nebraska
55	Keefe, James T.	Mar. 27, 1978	Sept. 18, 1981	Massachusetts
56	Muckenfuss, Cantwell F., III	Mar. 27, 1978	Oct. 1, 1981	Alabama
57	Wood, Billy C.	Nov. 7, 1978	Jan. 16, 1988	Texas
58	Longbrake, William A.	Nov. 8, 1978	July 9, 1982	Wisconsin

**Table 2— Senior Deputy and Deputy Comptrollers of the Currency, 1863 to the present (continued)**

No.	Name	Dates of tenure		State
59	Odom, Lewis G., Jr.	Mar. 21, 1979	Nov. 16, 1980	Alabama
60	Martin, William E.	May 22, 1979	Apr. 4, 1983	Texas
61	Barefoot, Jo Ann	July 13, 1979	Sept. 5, 1982	Connecticut
62	Downey, John	Aug. 10, 1980	Aug. 2, 1986	Massachusetts
63	Lord, Charles E.	Apr. 13, 1981	Mar. 31, 1982	Connecticut
64	Bench, Robert R.	Mar. 21, 1982	Sept. 25, 1987	Massachusetts
65	Klinzing, Robert R.	Mar. 21, 1982	Aug. 21, 1983	Connecticut
66	Robertson, William L.	Mar. 21, 1982	Sept. 26, 1986	Texas
67	Arnold, Doyle L.	May 2, 1982	May 12, 1984	California
68	Weiss, Steven J.	May 2, 1982	-	Pennsylvania
69	Stephens, Martha B.	June 1, 1982	Jan. 19, 1985	Georgia
70	Stirnweis, Craig M.	Sept. 19, 1982	May 1, 1986	Idaho
71	Hermann, Robert J.	Jan. 1, 1983	May 3, 1995	Illinois
72	Mancusi, Michael A.	Jan. 1, 1983	Feb. 17, 1986	Maryland
73	Marriott, Dean S.	Jan. 1, 1983	Jan. 3, 1997	Missouri
74	Poole, Clifton A., Jr.	Jan. 1, 1983	Oct. 3, 1994	North Carolina
75	Taylor, Thomas W.	Jan. 1, 1983	Jan. 16, 1990	Ohio
76	Boland, James E., Jr.	Feb. 7, 1983	Feb. 15, 1985	Pennsylvania
77	Fisher, Jerry	Apr. 17, 1983	Apr. 4, 1992	Delaware
78	Patriarca, Michael	July 10, 1983	Aug. 15, 1986	California
79	Wilson, Karen J.	July 17, 1983	July 3, 1997	New Jersey
80	Winstead, Bobby B.	Mar. 18, 1984	June 11, 1991	Texas
81	Chew, David L.	May 2, 1984	Feb. 2, 1985	District of Columbia
82	Walter, Judith A.	Apr. 24, 1985	Dec. 30, 1997	Indiana
83	Maguire, Francis E., Jr.	Jan. 9, 1986	Aug. 6, 1996	Virginia
84	Kraft, Peter C.	July 20, 1986	Sept. 15, 1991	California
85	Klinzing, Robert R.	Aug. 11, 1986	July 7, 1997	Connecticut
86	Hechinger, Deborah S.	Aug. 31, 1986	Sept. 14, 1987	District of Columbia
87	Norton, Gary W.	Sept. 3, 1986	Jan. 2, 1999	Missouri
88	Shepherd, J. Michael	Jan. 9, 1987	May 3, 1991	California
89	Rushton, Emory Wayne	Jan. 21, 1987	Sept. 20, 1989	Georgia
90	Fiechter, Jonathan	Mar. 4, 1987	Oct. 30, 1987	Pennsylvania
91	Stolte, William J.	Mar. 11, 1987	Mar. 21, 1992	New Jersey
92	Clock, Edwin H.	Feb. 29, 1988	Jan. 3, 1990	California
93	Krause, Susan F.	Mar. 30, 1988	-	California
94	Coonley, Donald G.	June 29, 1988	May 31, 1996	Virginia
95	Blakely, Kevin M.	Oct. 12, 1988	Sept. 27, 1990	Illinois
96	Steinbrink, Stephen R.	Apr. 8, 1990	May 3, 1996	Nebraska
97	Lindhart, Ronald	Apr. 22, 1990	July 27, 1991	Florida
98	Hartzell, Jon K.	July 29, 1990	Dec. 5, 1995	California
99	Cross, Leonora S.	Nov. 4, 1990	Mar. 31, 1998	Utah
100	Finke, Fred D.	Nov. 4, 1990	-	Nebraska
101	Kamihachi, James D.	Nov. 6, 1990	-	Washington
102	Barton, Jimmy F.	July 14, 1991	May 1, 1994	Texas
103	Cross, Stephen M.	July 28, 1991	-	Virginia
104	Guerrina, Allan B.	Apr. 19, 1992	June 23, 1996	Virginia
105	Powers, John R.	Aug. 9, 1992	July 2, 1994	Illinois
106	Alt, Konrad S.	Sept. 5, 1993	Oct. 4, 1996	California
107	Harris, Douglas E.	May 20, 1994	June 21, 1996	New York
108	Sharpe, Ralph	Oct. 30, 1994	July 6, 1997	Virginia
109	Jee, Delora Ng	May 28, 1995	-	California
110	Britton, Leann G.	Jan. 7, 1996	-	Minnesota
111	Abbott, John M.	Apr. 1, 1996	-	Texas
112	Healey, Barbara C.	June 9, 1996	Jan. 3, 1998	New Jersey
113	Calhoun, Scott G.	Sept. 29, 1996	Aug. 30, 1997	New York
114	Roberts, Matthew	Oct. 7, 1996	Oct. 18, 1997	District of Columbia
115	Nebhut, David H.	Oct. 27, 1996	Apr. 26, 1998	Pennsylvania
116	Rushton, Emory Wayne	May 5, 1997	-	Georgia

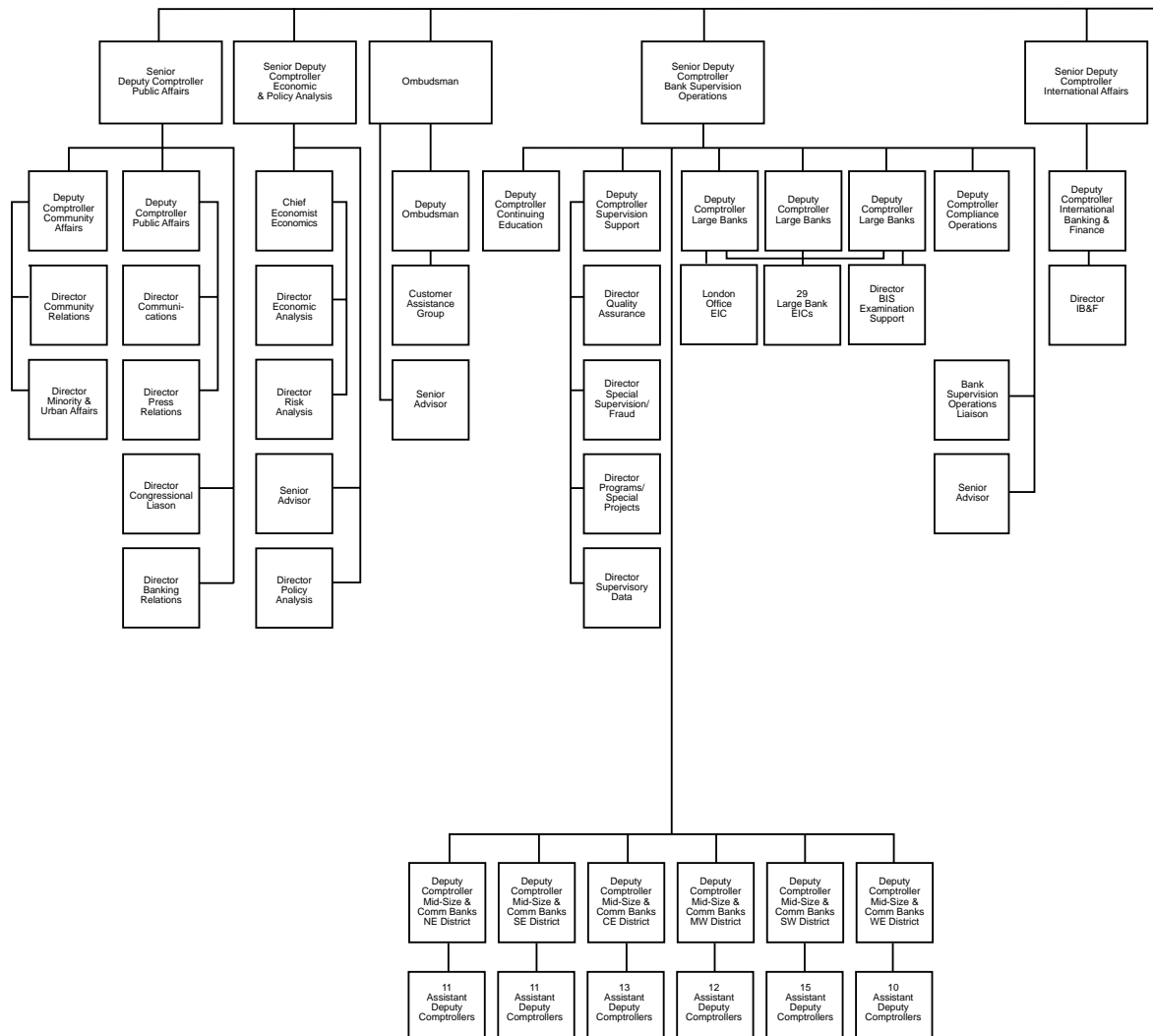


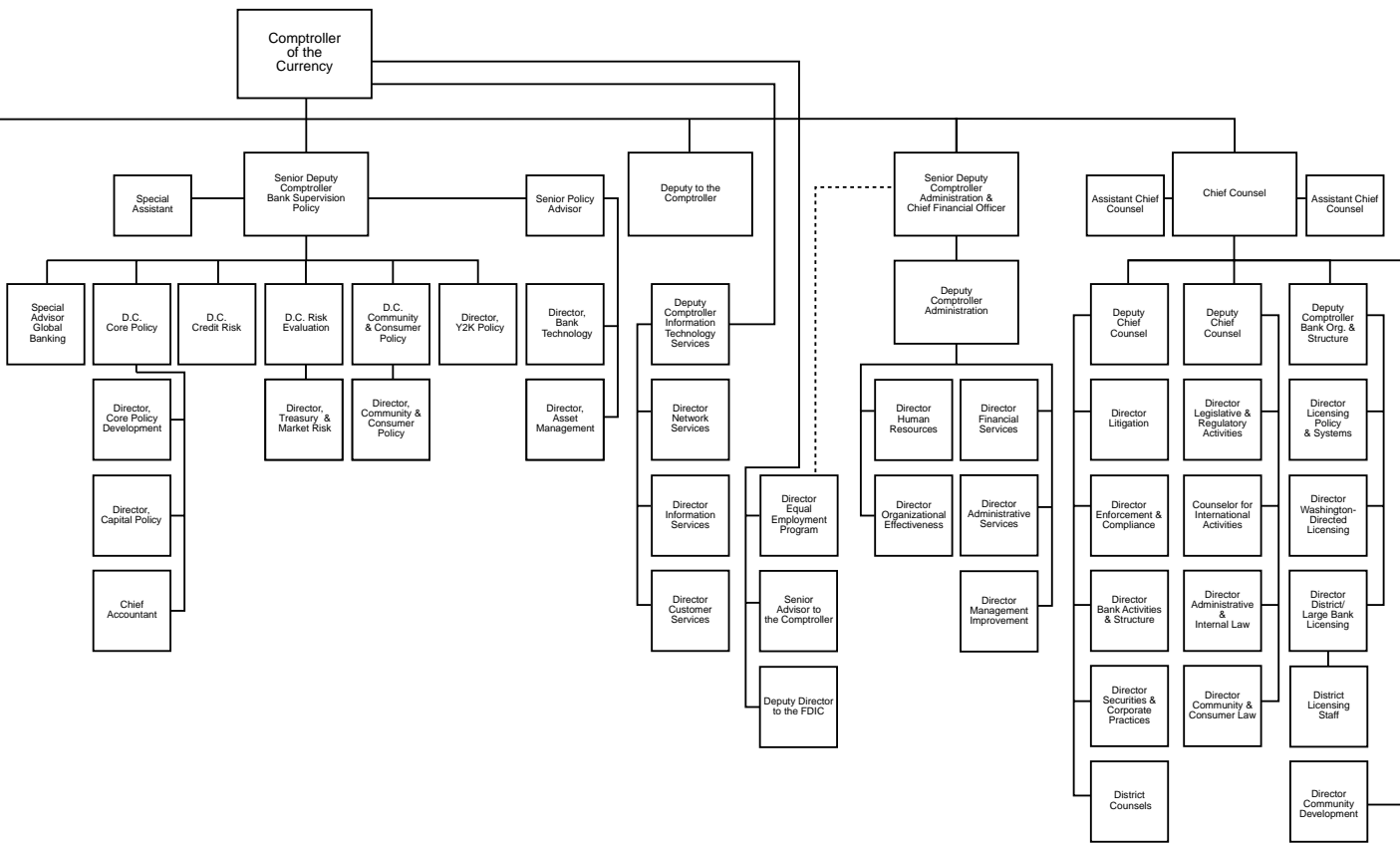
**Table 2— Senior Deputy and Deputy Comptrollers of the Currency, 1863 to the present (continued)**

No.	Name	Dates of tenure		State
117	Reid, Leonard	May 19, 1997	Feb. 15, 1998	Washington, D.C.
118	Gibbons, David	July 6, 1997	-	New York
119	Gilland, Jerilyn	July 6, 1997	-	Texas
120	Jaedicke, Ann	July 6, 1997	-	Texas
121	Long, Timothy	July 6, 1997	-	North Dakota
122	Nishan, Mark	July 6, 1997	-	New York
123	Otto, Bert	July 6, 1997	-	Indiana
124	Roeder, Douglas	July 6, 1997	-	Indiana
125	Yohai, Steven M.	Feb. 17, 1998	-	New York
126	Finister, William	Mar. 1, 1998	-	Louisiana
127	Hanley, Edward J.	Mar. 1, 1998	-	New York
128	Brosnan, Michael	Apr. 26, 1998	-	Florida
129	Brown, Jeffrey A.	June 7, 1998	Aug. 2, 1998	Iowa
130	Hammaker, David	June 7, 1998	-	Pennsylvania
131	McCue, Mary M.	July 20, 1998	Apr. 9, 1999	New Jersey



**Figure 1—Office of the Comptroller of the Currency**





December 1998



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# Recent Corporate Decisions

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## Minority Investments

The OCC conditionally allowed the establishment of an operating subsidiary to acquire and hold a noncontrolling interest in an LLC that will acquire, develop, and manage real property for use as bank premises. [Conditional Approval No. 298, dated December 15, 1998]

## Technology

The OCC granted conditional approval to fourteen national banks to acquire indirectly, minority, noncontrolling ownership interests in a corporation through an LLC. The national banks each own a minority, noncontrolling membership interest in the LLC either directly or through wholly-owned operating subsidiaries. The corporation provides electronic commerce services and financial application software and related products, including electronic home banking, bill payment and related services to financial institutions. The approval was granted on conditions the OCC routinely applies to national banks making minority investments. This decision represents an important further step in the evolution of electronic banking services. [Conditional Approval No. 289, dated October 2, 1998]

## Reorganization

The OCC conditionally allowed a national bank located in Missouri to amend its bylaws to elect the corporate governance provisions of Missouri law, and to engage in a reverse stock split as provided by Missouri law. The reverse stock split will enable the bank and its holding company to convert to Subchapter S status, and will substantially reduce administrative expenses and simplify corporate procedures of the bank. The approval has four conditions: (1) the bank will elect the corporate governance provisions of Missouri law; (2) notwithstanding the corporate governance provisions of Missouri law, the bank will provide for dissenters' rights comparable to those rights available in 12 USC 214a-215a; (3) if any shareholders dissent from the reverse stock split, the bank will pay the cost of any appraisal that may occur; and (4) if the appropriate court declines to accept jurisdiction of an appraisal action, the bank will provide for binding arbitration to conduct an appraisal. [Conditional Approval No. 299, dated December 17, 1998]

## Insurance

The OCC approved an application by a national bank to establish operating subsidiaries to reinsure a portion of

the mortgage insurance on loans originated or purchased by the banks or their lending affiliates. The approval relied on OCC Interpretive Letter No. 743 (October 17, 1996), which concluded that the activity is generally permissible under the National Bank Act because this activity is part of, or incidental to, the business of banking. Similar approvals were granted to two other banks in 1998 and six other national banks in 1997. [Corporate Decision No. 99-04, dated December 23, 1998]

The OCC approved an application to expand the activities of a national bank's mortgage reinsurance operating subsidiary to include reinsuring a portion of the mortgage insurance on loans serviced by the bank or the bank's lending affiliates. The OCC concluded that the reinsurance of serviced loans is part of the business of banking because it is functionally equivalent to purchases of a loan participation in the serviced loans. The OCC also found mortgage reinsurance on serviced loans to be permissible as incidental to banking because it is convenient and useful to the mortgage banking business. [Corporate Decision No. 99-02, dated December 11, 1998]

## Securities

The OCC conditionally approved separate applications by two national banks permitting their operating subsidiaries to underwrite and deal in municipal revenue bonds, under authority of 12 C.F.R. § 5.34(f). The decisions are similar to the OCC's decision in 1997 approving the application for this activity by Zions National Bank (Conditional Approval No. 262, December 11, 1997). [Corporate Decision No. 98-48, dated October 20, 1998; Conditional Approval No. 297, dated December 9, 1998]

## Other

The OCC allowed a national bank's operating subsidiary to provide employee benefit and compensation advisory services to small business customers and, on an as-needed basis, some incidental human resources consulting and career counseling to the customers' employees. The decision letter opines that employee benefit and compensation services are a form of financial advice and are therefore part of the business of banking. The letter further opines that the operating subsidiary may use the excess capacity doctrine to permit human resources and career counseling. [Corporate Decision No. 98-51, dated November 30, 1998]



# Special Supervision/Fraud and Enforcement Activities

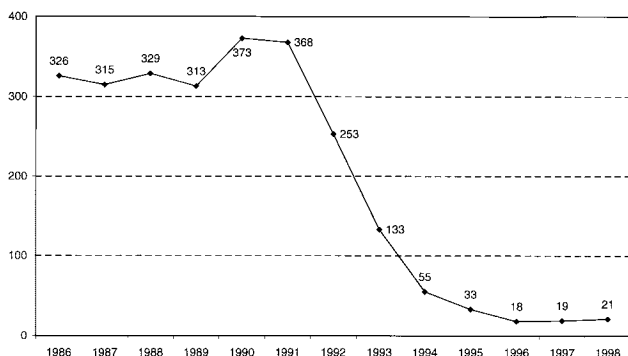
The Special Supervision/Fraud Division of the Bank Supervision Operations Department supervises the resolution of critical problem banks through rehabilitation or orderly failure management, monitors the supervision of delegated problem banks, coordinates fraud/white collar crime examinations, provides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

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

## Problem National Banks and National Bank Failures

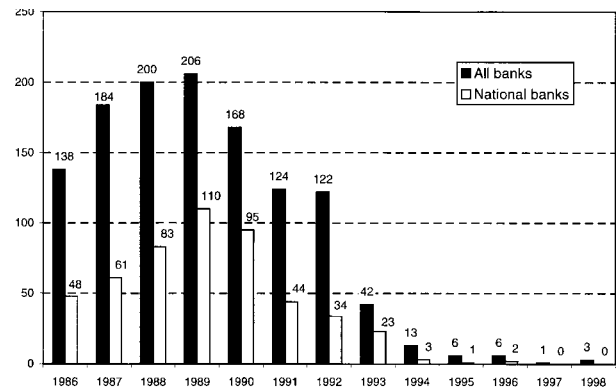
Problem banks represented less than 1 percent of the national bank population at year-end 1998. The volume of problem banks, those with a CAMELS rating of 4 or 5, has been stable for several years and totals 21 as of December 31, 1998. (The CAMELS rating is the composite rating based on capital, asset quality, management, earnings, liquidity, and sensitivity to market risk.) This low vol-

**Figure 1— Problem National Bank historical Trend Line**



Source: Special Supervision

**Figure 2— Bank Failures**



Source: OCC Supervisory Monitoring System (SMS) data\*

ume of problem banks reflects the stable economy and generally favorable economic conditions. There were no national bank failures during 1998 out of the three commercial bank failures. Although the volume of problem banks is stable, an increase- or deteriorating trend- is noted in the number of 3-rated banks. The number of banks that are 3-rated for year-end 1998 now exceeds the total reported at year-end 1995, 1996, or 1997.

## Enforcement Actions

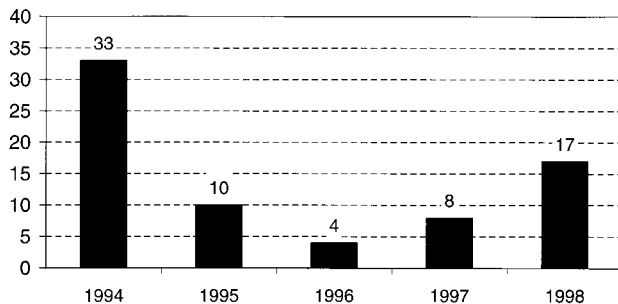
The OCC has a number of remedies with which to carry out its supervisory responsibilities. When it identifies safety and soundness or compliance problems, these remedies range from informal advice and moral suasion to informal and formal enforcement actions. These mechanisms are designed to achieve expeditious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

The OCC takes enforcement actions against both banks and individuals associated with banks. The OCC's informal enforcement actions against banks include commitment letters and memorandums of understanding (MOUs). Informal enforcement actions are meant to handle less serious supervisory problems identified by the OCC in its supervision of national banks. Failure to honor informal enforcement actions will provide strong evidence of the need for the OCC to take formal enforcement action. The charts below show total numbers of the various types of enforcement actions completed by the OCC in the last several years.



The totals for commitment letters, memorandums of understanding, and formal agreements are significantly higher for 1998 than prior years, mostly due to difficulties some banks have experienced converting their computer systems to become year-2000 compliant. Included in the enforcement actions totaled below were seven formal agreements, six memorandums of understanding, and three commitment letters for year-2000 deficiencies. In addition, the OCC developed a new type of enforcement action, a supervisory directive, that alerts national banks that have material deficiencies in their preparation for the year-2000 conversion of their deficiencies and summarizes the OCC's expectations of how the banks need to address them. In 1998, the OCC issued 330 year-2000 supervisory directives to national banks.

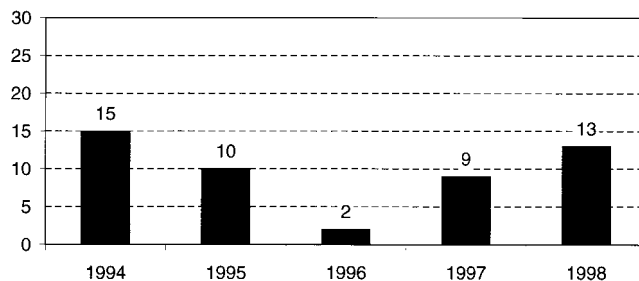
**Figure 3— Commitment Letters**



Source: OCC Supervisory Monitoring System (SMS) data\*

The most common types of formal enforcement actions issued by the OCC against banks over the past several

**Figure 4— Memorandums of Understanding**

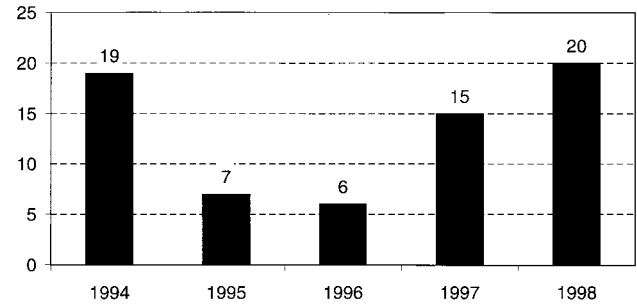


Source: SMS\*

years have been formal agreements and cease-and-desist orders. Formal agreements are public documents signed by a national bank's board of directors and the OCC in which specific corrective and remedial measures are enumerated as necessary to return the bank to a safe and sound condition. A violation of a formal

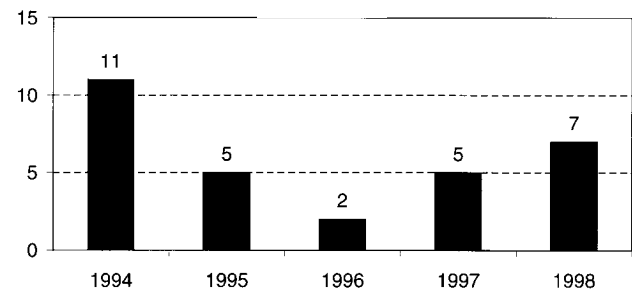
\*Note that SMS totals for previous years' completed enforcement actions may be adjusted to reflect revised aggregates.

**Figure 5— Formal Agreements**



Source: SMS\*

**Figure 6— Cease-and-Desist Orders Against Banks**



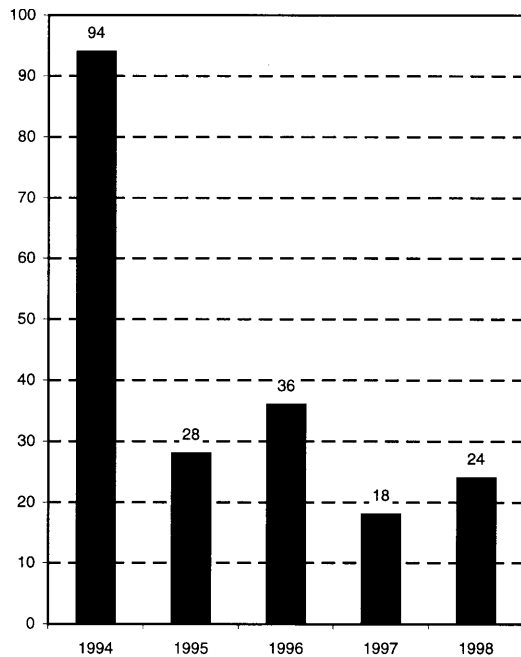
Source: SMS\*

agreement may be the basis for a civil money penalty (CMP). Cease-and-desist orders (C&Ds), sometimes issued as consent orders, are similar in content to formal agreements but may be enforced either through assessment of CMPs or by an action for injunctive relief in federal district court.

In addition, the OCC was given authority under the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), to issue "prompt corrective action" (PCA) directives against undercapitalized banks, and to issue safety and soundness orders against banks that fail to meet the Interagency Guidelines Establishing Standards for Safety and Soundness, codified at Appendix A to 12 CFR 30. Both PCA directives and safety and soundness orders are public documents that are enforceable in the same manner as a C&D. In 1998, the OCC issued three prompt corrective action directives and one safety and soundness order under FDICIA.

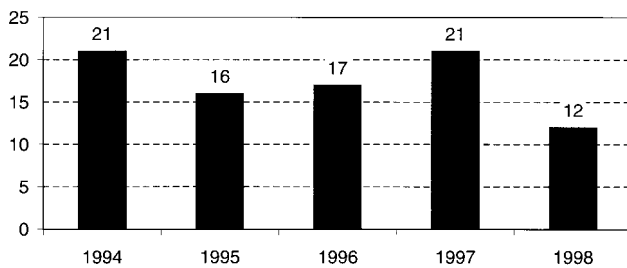
The most common enforcement actions against individuals are CMPs, personal C&Ds, and removal and prohibition orders. CMPs are authorized for violations of laws, rules, regulations, formal written agreements, final orders, conditions imposed in writing, and under certain circumstances, unsafe or unsound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

**Figure 7— Civil Money Penalties Against Individuals**



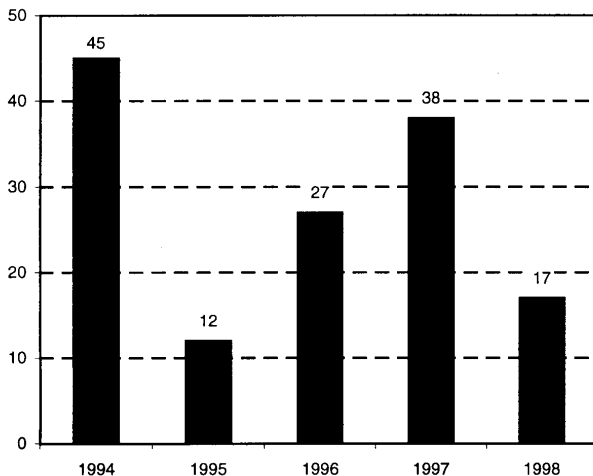
Source: SMS\*

**Figure 8— Cease-and-Desist Orders Against Individuals**



Source: SMS\*

**Figure 9— Removal and Prohibition Orders**



Source: SMS\*

used in the most serious cases, result in lifetime bans from the banking industry.

## Recent Enforcement Cases

### Federal Court Decision

In November 1998, E&C successfully defended the first federal district court challenge to an OCC temporary asset preservation order. E&C commenced the underlying enforcement actions in November 1998 against the former chairman and the former president of a national bank in Texas, seeking prohibitions, restitution and civil money penalties. At the same time, the OCC issued a temporary cease-and-desist order against the former chairman, seeking to preserve his assets until a hearing could be held on the OCC's restitution claims against him for \$3.6 million. The former chairman filed an emergency action in the United States District Court for the Northern District of Texas, seeking preliminary and permanent injunctive relief from the terms of the temporary order. The district court denied the chairman's request and required, instead, that he comply with the temporary order. In doing so, the court issued a written decision that agreed with each of the points made by E&C in its brief to the court.

### Agency Decision

In November 1998, in an action brought by the OCC, the Federal Reserve Board issued an order prohibiting from banking a former director of a national bank in Wisconsin for assisting two other bank insiders in causing the bank to fund those individuals' personal expenses. The director defaulted in the OCC's enforcement proceeding and so presented no defense to the Federal Reserve Board. The OCC had also suspended this individual prior to the issuance of the order, and obtained consent prohibitions against the two other insiders (see below).

### Consent Orders

In July 1998, an executive vice president and director of a national bank in New York state consented to a personal cease-and-desist order. The executive vice president originated a nominee loan in the name of his mother and used the money to pay off a loan of his at another bank.

In August 1998, the president of a national bank in Oklahoma consented to a \$1,000 civil money penalty and a personal cease-and-desist order limiting his activities in banking. The president improperly released valuable collateral supporting a bank loan and committed to purchasing a loan underwritten by another bank even though the

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

president should have known this latter loan had little chance of repayment.

In September 1998, two former directors and officers of a national bank in Wisconsin consented to prohibition orders for causing the bank to fund personal expenses over \$80,000 and causing the bank to make loans for their benefit in the names of other individuals. The OCC had suspended these individuals prior to settlement.

### **Safety and Soundness Orders and Prompt Corrective Action Directives**

In December 1998, the OCC issued a safety and soundness order against a national bank in California requiring the bank to comply with interagency guidance and OCC standards relating to conversion to year-2000 computer systems. The bank failed to comply with the required testing planning and implementation and did not provide an adequate corrective action plan to remedy its testing deficiencies.

In September 1998, the OCC issued a prompt corrective action directive to a national bank in California requiring it

to, among other things, restore its capital position to a safer level and improve the bank's operating procedures. At the same time, the OCC suspended the president of the bank for his reckless approval of overdrafts to borrowers whose prior loans had already caused large losses for the bank. The president approved the earlier loans to facilitate the sale of the bank, even though the loans were poorly underwritten and caused the bank to exceed its legal lending limit. Neither the president nor the bank contested these actions.

### **Fast Track Enforcement Cases**

The OCC continued its Fast Track Enforcement Program, initiated in 1996, which ensures that bank insiders who have engaged in criminal acts in banks, but who are not being criminally prosecuted, are prohibited from working in the banking industry. The following is a representative Fast Track case:

Two employees of a national bank in Texas consented to orders prohibiting them from the banking industry for embezzling approximately \$17,000 and \$20,000 each in two unrelated crimes at the bank.

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# Appeals Process

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## Appeal 1— Appeal of “Needs to Improve” CRA Rating— Lending to LMI Individuals

### Background

A small bank filed an appeal concerning its Community Reinvestment Act (CRA) rating of “needs to improve record of meeting community credit needs” (NTI). During the evaluation period, the bank’s total assets almost doubled, due mostly to a unique lending arrangement with a large local corporation. The corporation solicited a bid and subsequently selected the bank as its preferred lender for making stock-purchase loans for its eligible employees. The stock offerings are at the sole discretion of the corporation, with the bank’s role as making stock-secured loans to corporation employees. Lending under this program has been so substantial that a significant majority of the loans had to be participated with other financial institutions. Almost all of these loans were made to middle- and upper-income individuals.

The bank’s assessment area contains no low- or moderate-income census tracts. Low- and moderate-income (LMI) individuals and families represent 20 percent of the population within the assessment area. Additionally, the area is experiencing a high level of population growth with the majority of the growth in middle- and upper-income families.

In reviewing the bank’s lending pattern during the evaluation period, the examiners concluded that the bank’s record of lending to LMI borrowers was poor and did not reasonably reflect the assessment area demographics. Of the loan products sampled, very few of the number and dollar amount were to LMI borrowers. The primary reason for this was the substantial volume of stock-purchase loans. The examiners concluded that the bank’s performance under the remaining small bank test criteria was reasonable.

In its appeal, the bank contends that its performance cannot be fairly evaluated using the criteria in 12 CFR Part 25, Appendix A, of the CRA Regulation due to the unusual circumstances created by the stock-purchase loan program. The bank also contends that the percentage of LMI families within the assessment area, and the number of stock-purchase loans made, caused the examiners to conclude that the level of lending to LMI borrowers was very poor and loan originations did not reasonably reflect

assessment area demographics. The bank claims these conclusions misrepresent the facts.

To fairly evaluate the bank’s lending across income levels, the bank believes that OCC should exclude the stock-purchase loans from the analysis. While the examiners cited the stock-purchase program as the bank’s primary product line, the bank contends that it is not a product line because it cannot be marketed to the general public nor can the public purchase the stock. The bank considers its major product lines to be consumer loans (secondary market real estate, Home Mortgage Disclosure Act (HMDA) reportable, home equity, and auto loans).

The bank states that its consumer lending has not been affected by the stock-purchase program. Consumer lending to LMI borrowers represented 25 percent of the loans examiners sampled. This lending pattern exceeds the 20 percent level of LMI families within the bank’s assessment area. The bank states that due to the high cost of housing in the assessment area, a large number of homes are unaffordable to LMI families. Yet the bank claims that 16 percent of the loans in the examiners’ loan sample were secondary market, HMDA reportable, and home equity loans to LMI borrowers.

### Discussion

Since there was no dispute with the case facts, the issue to resolve was a determination on how the stock-secured loans should be treated in the analysis of lending to borrowers of different income levels.

The CRA Regulation, at 12 CFR 25.26, states that one of the small bank performance criteria is “the bank’s record of lending to and, as appropriate, engaging in other lending-related activities for borrowers of different income levels.” Part 25.21(b) of the regulation indicates that the OCC applies the small bank performance standards in the context of a bank’s assessment area:

- demographics;
- lending, investment, and service opportunities;
- product offerings and business strategy;
- capacity and constraints; and
- past performance.

The regulation's preamble provides some clarification of this part by adding that examiners consider this data in order to understand the context in which the bank's performance should be evaluated. Additionally, the regulation and CRA examination procedures focus examiners' attention on residential real estate, small business, small farm, community development, and to a much lesser degree consumer loans, not commercial loans. While the regulation does not require that lending match assessment area demographics, examination procedures direct examiners to compare the ratio of loans made to LMI families to the percentage of LMI families within the assessment area.

## Conclusion

Based on the bank's business strategy, product offerings, and the lack of previous CRA issues, the stock-purchase loans should be considered in the evaluation of the bank's CRA performance. However, this arrangement is also an appropriate "performance context" issue. Other than the stock-purchase loans, the data reviewed indicated that the bank's other lending activities during this evaluation period were consistent with past evaluation periods. The bank's real-estate-related lending had also increased over past periods.

The bank's real-estate-related loans and total consumer lending to LMI individuals and families provide a reasonable distribution by borrower income level. Since the examiners found the bank's performance reasonable in the remaining performance criteria, the rating was upgraded to "satisfactory."

However, because of the bank's growth strategy, the board was strongly encouraged to reconsider the size of its assessment area. It was determined that while the regulation does grant some flexibility in designating an assessment area smaller than a metropolitan statistical area (MSA) or political subdivision, the bank's strong capital, earnings, and lending record support its ability to reasonably serve a larger area than its current assessment area boundaries.

## Appeal 2— Appeal of Potential Violation of the Equal Credit Opportunity Act and the Fair Housing Act— Lending Examination Conclusion

### Background

A large bank filed a formal appeal concerning a potential violation of the Equal Credit Opportunity Act (ECOA) and the Fair Housing Act (FHA). The bank received correspondence stating that the OCC had a reason to believe

that the bank had engaged in a pattern or practice of discrimination by treating black applicants for home improvement loans less favorably than similarly situated white applicants. The bank did not agree that it engaged in a pattern or practice of discrimination nor that a violation of the ECOA and the FHA occurred.

- 1) The bank believed that the OCC's decision was based solely upon the results of a multivariate regression analysis. The bank asserted that the multivariate analysis ignored the inconclusive results of the OCC's univariate analysis and comparative file review, along with the two bank-prepared statistical analyses. The two bank-prepared analyses concluded there was no discrimination.
- 2) The bank also believed that the statistical regression analysis was flawed because the OCC model:
  - contained several fundamental errors that if corrected would eliminate the inference of discrimination;
  - did not include two key underwriting factors;
  - oversampled denied minority applicants based on the reason for denial rather than using an appropriate sample of the population of applications for analysis;
  - did not show either credible exception files nor similarly situated matches; and
  - did not reach statistical significance at the 95 percent level of confidence when one minority application was extracted from the analysis.
- 3) The bank asserted that the OCC relied solely on a multivariate regression analysis, which is inconsistent with both its fair lending examination procedures and its published agency staff commentary on appropriate examination practices.
- 4) The bank felt that the OCC finding directly conflicted with safety and soundness considerations.
- 5) Finally, the bank was of the opinion that the OCC had not provided the bank with any comparably unqualified white applicants who received credit.

To evaluate the bank's fair lending performance, the OCC conducted a comparative file analysis and univariate and multivariate regression analyses using statistical modeling. The file analysis compared the treatment of black and white applicants for home improvement loans. The regression model also compared the treatment of black and white applicants. In this case, the findings of the comparative file review were inconclusive, yet the OCC was still troubled by inconsistencies noted with loan outcomes among white and black applicants.

The bank used credit scoring in its loan decision process. However, since bank underwriters did not strictly adhere to the credit score analysis, nor written underwriting guidelines for credit scoring, and used multiple and varying criteria for making approval/denial decisions, the OCC concluded that statistical sampling and modeling was the most beneficial way to address the concerns identified during the comparative file review. The multivariate regression analysis revealed that, after consideration of other factors, race was a significant factor in the probability of denial of credit-scored home improvement loan applicants. The analysis indicated that black applicants were approximately four times more likely to be denied credit than similarly situated white applicants. It was determined that a pattern or practice of discrimination may exist as black applicants appeared less favorably treated than similarly qualified white applicants.

The bank hired an outside consultant to conduct its own statistical regression analysis. The bank's consultant contended that the OCC multivariate regression analysis was flawed and should be discounted. The consultant also performed its own regression analysis, using a different approach, and concluded that there was no potential discrimination.

After evaluating all the evidence, including the bank-prepared statistical analyses and several bank responses, the OCC concluded there remained a reason to believe that the bank had potentially engaged in a pattern or practice of discrimination by treating black applicants less favorably than similarly situated white applicants for home improvement loans. Therefore, the OCC concluded it was obligated to refer this matter to the U.S. Department of Justice and to notify the U.S. Department of Housing and Urban Development.

## Discussion

The ECOA, 15 USC 1691(a), prohibits a creditor from discriminating against an applicant on a prohibited basis regarding any aspect of a credit transaction. The implementing regulation 12 CFR 202 (Regulation B) defines prohibited basis as:

*Prohibited basis* means race, color, religion, national origin, sex, marital status, or age (provided that the applicant has the capacity to enter into a binding contract); the fact that all or part of the applicant's income derives from any public assistance program; or the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act or any state law upon which an exemption has been granted by the Board. (12 CFR 202.2 (z))

The FHAct, 42 USC 3605(a), prohibits a lender from discriminating on a prohibited basis in a residential real-estate-related transaction (including the making of loans) or

in the terms or conditions of the transaction. The implementing regulation, 24 CFR 100.130, states it shall be unlawful for any person or entity engaged in the making of loans or on the provision of other financial assistance relating to the purchase, construction, improvement, repair, or maintenance of dwellings, or which are secured by residential real estate, to impose different terms or conditions for the availability of such loans or other financial assistance because of, among other factors, race.

While the ECOA and the FHAct do not define the term "pattern or practice," the "Interagency Policy Statement on Discrimination in Lending" offers guidance on the meaning of a pattern or practice. The policy statement states that "repeated, intentional, regular, usual, deliberate, or institutionalized practices will almost always constitute a pattern or practice" of lending discrimination but "isolated, unrelated, or accidental occurrences will not." In assessing whether a pattern or practice exists, the OCC considers the totality of the circumstances, including the following factors:

- Whether the conduct appears to be grounded in a written or unwritten policy or established practice that is discriminatory in purpose or effect.
- Whether there is evidence of similar conduct by a bank toward more than one applicant.
- Whether the conduct has some common source or cause within the bank's control.
- The relationship of the instances of conduct to one another.
- The relationship of the number of instances of conduct to the bank's total lending activity.

This list of factors is not exhaustive and whether the OCC finds evidence of a pattern or practice depends on the egregiousness of the facts and circumstances involved. Each inquiry is intensively fact-specific and there is no minimum number of violations that will trigger a finding of a pattern or practice of discrimination.

## Conclusion

The ombudsman thoroughly reviewed the issues highlighted in the appeal letter, OCC documents, and analyses of the issues raised, both prior and subsequent to the appeal submission. Discussions were held with the bank's outside attorney, bank personnel, and appropriate OCC staff.

The ombudsman acknowledged the bank's arguments, but was not persuaded that the supervisory office conclusion was in error or that the OCC statistical sampling and modeling techniques lacked integrity. Therefore, the ombudsman concluded that sufficient information existed to support the

examination conclusion that there was a reason to believe that the bank engaged in a pattern or practice of discrimination in violation of the ECOA and the FHAct and, as such, remanded to the OCC's supervisory office the matter of referral to the U.S. Department of Justice and notification to the U.S. Department of Housing and Urban Development.

The ombudsman also addressed the bank's concern regarding the conduct and planning of the examination. While the examination took significantly longer than it should have and contributed to misunderstandings and questions regarding OCC examination goals and objectives, the ombudsman found that both the bank and the OCC were responsible for the time it had taken to complete this examination.

## **Appeal 3— Appeal of “Needs To Improve” CRA Rating— Violations of ECOA**

### **Background**

A designated limited purpose bank filed an appeal concerning its composite CRA rating of “needs to improve record of meeting community credit needs” (NTI). The bank received a “satisfactory” rating under the community development test, but the overall rating was down-graded to NTI based on an alleged substantive violation of the Equal Credit Opportunity Act (ECOA) and Regulation B. In particular, the bank claims that the OCC examiners did not appropriately credit its subsequent efforts, during the on-site examination and shortly thereafter, to address the fair lending issues raised during a concurrent fair lending examination in determining its CRA performance rating.

Examiners found differences in the treatment of Spanish-language and English-language applicants/cardholders in one of the bank's designer label credit cards and determined that a reason to believe a substantive violation of ECOA had occurred. The underlying cause of the alleged violation was deficient internal control systems. After a thorough review of the alleged fair lending violation, the OCC referred the case to the U.S. Department of Justice for further investigation. The bank appealed that decision, but the ombudsman's office concluded that there was sufficient information to support the examination findings. Subsequently, the OCC referred the matter to the Department of Justice.

### **Discussion**

While the bank maintains that it did not violate the ECOA or Regulation B, it acted quickly and initiated a number of prospective and retrospective actions to address the examiner's fair lending findings. After discussions with the examiners, the bank began implementing actions that were largely completed during or shortly after the comple-

tion of the fair lending examination. Regarding retrospective actions, the bank voluntarily:

- 1) merged the application handling for Spanish-language and English-language programs under one underwriting process;
- 2) reviewed all Spanish-language applicants denied credit to determine if they would have been approved under the English-language program and then offered them credit;
- 3) increased credit lines of Spanish-language applicants who had received lower lines than similarly situated English-language applicants; and
- 4) offered a special balance consolidation promotion to Spanish-language cardholders who had previously not received such offers.

Prospectively, the bank voluntarily:

- 1) conducted fair lending training for pertinent employees;
- 2) instituted a policy that all new employees in the risk, marketing, and credit departments receive fair lending training;
- 3) mandated fair lending recertification of employees annually;
- 4) improved internal controls and oversight systems;
- 5) established procedures for legal and compliance program reviews; and
- 6) improved audit review of fair lending issues.

The bank believes that if its actions taken to address the fair lending concerns had been appropriately considered, it would have received a “satisfactory record of meeting community credit needs” rating. In the appeal letter, the bank cited prior instances in which the ombudsman's office had amended ratings after giving consideration to post-examination actions not considered by the examiners.

The Community Reinvestment Act, at 12 CFR 25.28(c), states that:

Evidence of discriminatory or other illegal credit practices adversely affects the OCC's evaluation of a bank's performance. In determining the effect on the bank's assigned rating, the OCC considers the nature and extent of the evidence, the policies and procedures that the bank has in place to prevent discriminatory or other illegal credit practices, any

corrective action that the bank has taken or has committed to take, particularly voluntary corrective action resulting from self-assessment, and other relevant information.

At issue is whether the examiners appropriately considered the bank's corrective actions in arriving at the bank's CRA performance rating.

### **Conclusion**

The "needs to improve" rating was upheld and the examiners appropriately considered the bank's efforts to ad-

dress the fair lending violation in arriving at that rating. However, the bank's substantial action to correct the violation did not mitigate the other factors OCC considers in such cases. The extent of the evidence regarding the treatment of individuals under the Spanish-language product was material, supporting a "reason to believe" that a pattern or practice of disparate treatment existed. Furthermore, the bank, at the time, did not have sufficient internal controls, policies, and procedures in place to prevent such practices. The ombudsman acknowledged the merits of the bank's actions to address this issue. The benefit of such should positively affect the bank's CRA performance during future evaluation periods.





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# Speeches and Congressional Testimony

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*Page*

## **Of the Comptroller of the Currency:**

Statement of Julie L. Williams, Acting Comptroller of the Currency, before the U.S. House Committee on Banking and Financial Services, on long-term capital management and hedge funds, Washington, D.C., October 1, 1998 .....	111
Remarks by Julie L. Williams, Acting Comptroller of the Currency, before the Wallenberg Bankers Forum, on mega-mergers, Washington, D.C., October 5, 1998 .....	115
Remarks by Julie L. Williams, Acting Comptroller of the Currency, before the Risk Management Planning Conference, on credit quality and loan underwriting standards, San Francisco, California, October 16, 1998 .....	118
Remarks by Julie L. Williams, Acting Comptroller of the Currency, before the Consumer Bankers Association, on customer privacy and information security, Aventura, Florida, October 26, 1998 .....	121
Remarks by Julie L. Williams, Acting Comptroller of the Currency, before the McLean Chamber of Commerce, on the effects of mega-mergers on small businesses and community banks, McLean, Virginia, October 28, 1998 .....	124
Remarks by Julie L. Williams, Acting Comptroller of the Currency, before the Exchequer Club, on customer service and competition in the financial services industry, Washington, D.C., November 18, 1998 .....	127

## **Of the Deputy Comptroller for International Banking and Finance:**

Remarks by John M. Abbott, Deputy Comptroller for International Banking and Finance, Office of the Comptroller of the Currency, before the Institute of International Bankers, on the supervision of branches and agencies of foreign banks, New York, New York, November 9, 1998 .....	130
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# Statement of Julie L. Williams, Acting Comptroller of the Currency, before the U.S. House Committee on Banking and Financial Services, on long-term capital management and hedge funds, October 1, 1998

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

Mr. Chairman and members of the Committee, I appreciate this opportunity to testify on issues raised by the near collapse and interim rescue of Long-Term Capital Management, L.P. (LTCM) and issues associated with bank involvement with hedge funds. I commend you for holding this hearing to explore the reasons behind and the implications of the near collapse and interim rescue of LTCM. My testimony will be focused on bank supervisory issues presented by LTCM specifically and bank involvement in hedge funds in general.

While we are continuing to verify our understanding of the impact of LTCM on national banks, we know of no national bank that has been jeopardized by the near collapse of the hedge fund. Nonetheless, we are examining these events to discern how bank supervision may be improved to fortify risk management activities in this area. All banks should be revisiting the ways in which they extend credit to hedge funds. At this point, it appears that the lasting impact of LTCM will be the lessons it teaches about proper management of credit risk, particularly involving leveraged customers, and about the kinds of questions supervisors need to ask the banks.

My statement is structured as follows: a brief description of hedge funds and their activities; a discussion of how national banks interacted with LTCM; a general characterization of national bank exposure to LTCM, specifically, and to other hedge funds; a discussion of the Office of the Comptroller of the Currency's (OCC) supervisory strategies for bank lending to hedge funds; and finally some preliminary observations about the lessons of the LTCM situation for banks, supervisors and financial markets.

## Hedge Funds and Long-Term Capital Management, L.P.

The term "hedge fund" generally refers to unregulated private investment partnerships that use some form of leverage (either through derivatives or direct borrowing) to accomplish their investment objectives. Therefore, the term "leveraged fund" is often used interchangeably with the term "hedge fund." Hedge funds generally are not subject to any reporting or disclosure requirements, and most hedge funds have the unrestricted ability to take short positions,

which is not the case with mutual funds. Hedge funds use a greater variety of investment strategies and techniques than regulated funds. Hedge funds also can differ in structure depending on whether they are domiciled in the United States or based outside our geographic boundaries.

Most hedge funds are structured as limited partnerships. The partnership is run by the general partner(s) who is (are) usually an unregistered investment advisor. Hedge funds are not registered as investment companies nor subject to the standards implemented by the Investment Company Act of 1940 because Section 3(c)(1) of the Act provides an exception from the definition of investment company for "any issuer whose outstanding securities . . . are beneficially owned by not more than 100 persons and is not making and does not presently propose to make a public offering of its securities. . . ." Therefore, hedge funds structure themselves to avoid federal securities law regulation by limiting their securities sales to fewer than 100 participants, all of whom would meet the definition of qualified purchasers.<sup>1</sup> Similarly, fund advisors are not required to be registered and subject to the Investment Advisors Act.<sup>2</sup> Hedge fund managers can avoid the definition of investment advisor by limiting their client base to fewer than 15 hedge fund "clients." Thus, generally, the limited partners (investors) in such funds are a limited number of wealthy, financially sophisticated parties, who must perform their own due diligence of the hedge fund, since the fund is not subject to standardized disclosure requirements.

Although hedge funds deploy a wide variety of investment strategies, they are typically categorized as one of two

<sup>1</sup> Under a 1996 amendment to the Federal securities laws, hedge funds are exempted from Securities and Exchange Commission regulation as long as they are limited to fewer than 500 "sophisticated" institutions or individuals— meaning institutions with total investments exceeding \$25 million and individuals with investment portfolios of at least \$5 million.

<sup>2</sup> Section 3(c)(7)(A) of the Investment Company Act provides an exception for "any issuer, the outstanding securities of which are owned exclusively by persons [regardless of number] who, at the time of acquisition of such securities, are qualified purchasers, and which are not making and do not at the time propose to make a public offering of such securities. . . ." A qualified purchaser is defined in Section 2(a)(51) of that Act and includes persons with more than \$5 million in assets. Section 203(b)(3) of the Investment Advisors Act of 1940 provides an exemption from registration for any investment advisor "who during the course of the preceding 12 months has had fewer than 15 clients and who neither holds himself out generally to the public as an investment advisor nor acts as an investment advisor to any [registered] investment company. . . ."

types of funds— either macro funds or relative-value funds. Generally speaking, macro funds exercise some degree of leverage and execute cash market and derivative transactions to take large market direction positions in equities, fixed income and foreign exchange. Most of the new hedge funds are relative-value funds, which specialize in directional positions in specific markets, arbitrage strategies, or taking advantage of pricing inefficiencies in basic financial instruments in asset markets.

### **Long-Term Capital Management (LTCM)**

LTCM was founded in March 1994 by John Meriwether, a former bond trader at Salomon Brothers, and can be characterized broadly as a relative value fund. We understand the firm's investment strategy consisted of a sophisticated computer-assisted arbitrage strategy known as "convergence trading." This strategy seeks to take advantage of small differences in the values of securities, currencies and other financial instruments within and between different markets. It generally relies heavily on quantitative analysis and computer models, which identify temporary anomalies that may be taken advantage of in anticipation of their return to normal levels.

It has been reported in the financial press that some of LTCM's trading positions experienced losses as the expected convergence did not materialize— largely due to the recent pronounced "flight to quality" from riskier markets along with unanticipated market volatility. We understand that LTCM's high levels of borrowing, to leverage invested capital and increase returns to borrowers, greatly contributed to the firm's vulnerability to adverse market shifts. When market prices moved against LTCM's positions, the extreme leverage in their positions resulted in sizable and accelerated losses. These adverse events triggered margin or collateral calls from creditors that were met through draws under lines of credit or the liquidation of holdings, which resulted in the realization of additional losses and adverse price movements. Last week, a private sector creditor group convened to design and implement a long-term workout that included a change in managerial control of LTCM and the infusion of capital.

### **National Banks and Hedge Funds**

National banks can be involved with hedge funds in a number of ways, and with varying degrees of exposure. Among the services banks provide to their hedge fund customers are:

- loans and credit enhancements;
- execution, clearance, and settlement of trades, including derivatives transactions; and
- custodial services and cash management services.

In addition, holding companies of national banks may be equity investors in hedge funds.<sup>3</sup>

### **National Bank Exposure to LTCM**

The most recent information we have received from our examiners indicates national banks do not have meaningful exposures to LTCM. Five national banks were participants in a syndicated, unsecured, revolving credit<sup>4</sup> pursuant to which those banks loaned, in the aggregate, \$94 million to LTCM. In addition, there were unfunded commitments totalling \$76 million, and equity and other investments by national bank holding companies or the banks themselves totalling \$107 million. The unsecured trading exposure of national banks to LTCM was approximately \$21 million as of earlier this week.

The unsecured, revolving credit was extended based on the reputation of the principals at the firm, LTCM's track record over the last few years, and the fact that the principals had invested a significant amount of their own capital in the firm. These exposures to LTCM were aggressive compared to the exposures these banks typically had with other fund managers.

### **National Banks and Other Hedge Funds**

National banks have exposures to hedge funds arising from direct lending, trading lines, and investments. As of earlier this week, eight national banks had exposures totalling approximately \$1.8 billion, net of cash or Treasury collateral, from firms that are generally categorized as hedge funds. No bank's exposure exceeded 6.0 percent of its total risk-based capital.

### **OCC Supervision of Bank Relationships with Hedge Funds**

The majority of national bank activities relating to hedge funds can be grouped under two main categories of bank operations: lending and capital markets activities. A bank may, for example, extend loans directly to hedge funds. A bank also may be an intermediary for hedge fund transactions through its trading department. Bank relationships with hedge funds mostly occur at the very largest institutions, which have full-time resident staff who monitor trading, credit, and risk management activities.

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<sup>3</sup> National banks may invest directly in a hedge fund provided that the portfolio of the fund consists exclusively of assets that a national bank may purchase and sell for the bank's own account, and the fund otherwise meets all applicable requirements for ownership by a national bank. See 12 CFR 1.3(h).

<sup>4</sup> This is part of a \$700 million unsecured revolving credit led by a major financial institution.

## **Supervision of Lending Activities**

The OCC expects national banks to analyze the credit risk of secured and unsecured lending to hedge funds consistent with the overarching principles of credit risk management established through its examination and supervisory procedures. Strategic planning and risk limits are necessary to address these expectations. Loan policies are expected to include standards for portfolio composition and credit decisions and are usually supplemented by detailed underwriting standards, guidelines, and procedures.

Loans and other lines of credit to hedge funds are reviewed by the OCC when commercial loans are examined, using loan portfolio management procedures to assess the quantity and quality of credit risk. The credit procedures encompass assessment of the loan policy; underwriting guidelines and practices; portfolio composition and strategic factors; internal controls; external factors such as economic trends; staffing; and management information systems.

The loan to LTCM is an example of slipping credit underwriting standards that the OCC and the other regulators have recently warned about. In this case it appears that repayment was dependent on LTCM management's reputation and acumen to continue to generate strong returns in a strong market. The banks extending the loan to further leverage an already highly leveraged business must have assumed that LTCM would turn that leverage into profits sufficient to repay the loan. This, in and of itself, is not necessarily a bad thing; it is one of the ways that banks assume credit risk through lending. Properly underwritten and controlled, the risk/reward relationship can be acceptable. Unfortunately, when you combine this type of lending with the lack of any significant structural underwriting protections, in this case sufficient collateral, you can get an unwarranted credit risk.

In good economic times, such as those of the past several years, it is easy to become complacent with regard to proper loan structure. Lenders tend to focus more on the risk of default and less on the likelihood of loss in the event of default. Proper loan structure and underwriting are the key to controlling loss in the event of default. It is easy to do because when borrower's businesses and profits are strong, the likelihood of default (let alone a loss) appears remote. One of our jobs as bank regulators is to ensure that bank lenders structure loans in a manner that will maximize the likelihood of repayment and minimize losses to shareholders and depositors irrespective of the economic environment.

The OCC has implemented examination guidance to further focus the attention of both examiners and bankers

on the importance of proper loan structure and underwriting standards. We are asking our examiners to identify loans with structural weaknesses that could jeopardize orderly liquidation of the loans, and to bring them to the attention of bank management and boards in every Report of Examination. Additionally, we are asking our examiners to identify, and report to bank management and boards, loans for which repayment is heavily dependent on projected (as opposed to demonstrated) repayment sources. In bringing these loans, and their inherent risks, to the attention of bank management and boards now, we want them to assess the risks for themselves and make appropriate adjustments to their lending and risk management practices prior to the regulators requiring such actions.

## **Supervision of Capital Markets Activities**

As stated earlier, some national banks engaged in derivatives transactions with LTCM. The OCC believes that, effectively managed, derivatives provide users with flexible risk management tools. Because of their inherent leverage and the potential for adverse exposure to a bank's reputation, however, the OCC provides extensive oversight and supervision of derivative usage in national banks. Eight commercial banks account for 95 percent of the total notional amount of derivatives in the banking system, with approximately 99 percent held by the top 25 banks.

Over the past six years, the OCC has incorporated into its supervision of national banks the examination of derivative contracts and activities. In October 1993, the OCC issued Banking Circular 277 (BC 277), "Risk Management of Financial Derivatives," to establish safe and sound practices for managing financial risks, including those arising from derivatives activities. BC 277 states that banks should adopt systems and controls to measure and monitor properly the individual and aggregate risks associated with their derivatives portfolios and advises banks to set up and follow appropriate risk limits. It includes separate standards for dealer banks and end-users. BC 277 also emphasizes the need for banks to establish controls that assess the appropriateness of specific transactions for customers in order to manage the credit and reputation risk to the bank. To ensure customer appropriateness, we require that dealer banks understand the nature of each counterparty's business and the purpose of its derivative activities.

In evaluating a bank's trading and derivatives activities, the OCC's procedures encompass the assessment of policies, procedures, practices; management information systems; effectiveness of the risk management process as well as the level of risk undertaken in relation to the bank's overall risk governance framework; compliance with laws,

regulations, and regulatory guidelines; profitability; and overall strategy.

Our on-site supervisory review of trading departments includes both regularly scheduled and focused examinations, as well as ongoing, on-site supervision at the largest banks. During focused examinations, emphasis is directed at those bank activities or departments exhibiting higher than average risk or growth, potential instability, or unique or new characteristics. These examinations may also cover certain products, such as interest rate swaps, or a given risk category, such as interest rate risk. Staff from the OCC's Risk Analysis Division— who hold Ph.D.s in economics or finance— participate in these and other examinations to assess theoretical and quantitative issues in the models used for pricing and risk management. In analyzing bank models, however, what is most important is that supervisory staff understand the infrastructure and culture of the institution in which the model is embedded, know the assumptions underlying the model, and determine who in the organization understands the assumptions and the risk management processes associated with the models.

### **Preliminary Observations about Impact of LTCM**

Events surrounding the near collapse and interim rescue of LTCM may provide some important lessons to banks, their regulators and the financial markets. First is the need not to lose sight of fundamental risk management practices. Credit decisions must be made on the basis of the underlying risks of the current transaction. While the experience or reputation of a customer or the past performance of a client's endeavors is and should be relevant to a bank's credit or investment decision, those factors should not be the only or principal elements taken into account in determining whether or not to make loans or engage in transactions with hedge funds.

Thus, the LTCM case underscores the need for banks to understand the full extent of their credit and trading exposure to leveraged customers, including hedge funds. As creditors, banks need to get as much information as possible about the fund's investment strategy and the exposure of other financial institutions to the fund. Although hedge fund managers may wish to limit available infor-

mation on their investment strategies and other investors, since this is part of their perceived proprietary advantage vis a vis their competitors, banks should be conservative about their hedge fund lending and investment activities when they receive insufficient information to make informed risk management decisions.

Where the transparency of hedge fund financial information is inadequate, the need for banks to secure and maintain sufficient collateral for their credit risk is enhanced. Even when market conditions are such that banks face increased competition for a given type of loan or service, they need to adhere to basic principles of sound credit risk management. One such principle teaches that if a lender lacks sufficient information about the financial condition and activities of a borrower or counterparty, the lender should obtain collateral to protect its credit risk position.

Finally, we must not allow the sophistication of quantitative risk modeling techniques to tempt us to abandon banking fundamentals. Modeling has proven to be a valuable tool for risk management. To realize fully the benefits of quantitative modeling, however, models must be accompanied by sound risk management practices and appropriate risk oversight from experienced personnel. Importantly, senior decision makers need to understand how to interpret the output and limits of quantitative models. The fact that a borrower or counterparty employs sophisticated modeling techniques in its business is no substitute for a lender having collateral to protect its position in the event the borrower/counterparty's financial condition comes under stress.

### **Conclusion**

In conclusion, although not all of the facts about the LTCM situation are in, the events surrounding the interim rescue of the firm certainly illustrate the continuing need for financial institutions and the regulatory agencies to assure adherence to prudent, effective risk management practices. Technological advancements and sophisticated computer modeling techniques have contributed to more precise risk management techniques, but we cannot be complacent about the potential for market volatility and risk and we must not forget the ongoing need to follow fundamental principles of risk management, even in the most sophisticated types of credit transactions.

## Remarks by Julie L. Williams, Acting Comptroller of the Currency, before the Wallenberg Bankers Forum, on mega-mergers, Washington, D.C., October 5, 1998

I am honored to be following in the footsteps of the distinguished statesmen and women who have shared their thoughts on financial and business issues with the Wallenberg Bankers Forum. A free market in goods and services requires an equally free exchange of ideas, and, for more than 20 years now, the Wallenberg Forum has made an impressive contribution to that goal.

Let me begin by welcoming those of you who are guests in this country during this week of IMF/World Bank meetings. I trust that your discussions will be fruitful and constructive, and will advance the objectives of the two great international organizations whose work brings you here this week.

Your meeting takes place at what is surely a critical juncture in economic history. It has been a year of deepening crisis in many parts of the world. Across Asia, from Japan to Malaysia, from Russia to Brazil, economic instability continues to sweep across borders and continents, toppling some governments, disrupting trade, hobbling growth, and retarding the development of fledgling economies. No country can be said to be immune from its effects.

But some have obviously fared better than others. Those like the United States that have so far weathered the worst of the current disturbances are countries with at least one thing in common: safe, sound, and competitive banks— and a vigorous supervisory system. Conversely, the countries that are having the most difficult time of it happen to be those with banking systems that are troubled and bank supervisory standards that are undeveloped or inadequate. The lesson, I think, is clear: solid financial institutions— under effective supervisory controls— are the indispensable foundation of healthy, growing economies.

One of the biggest stories of the year in the U.S. financial system has been “mega-mergers” in the banking industry and that is what I would like to talk about this afternoon. By most accounts, the story began on April 6 of this year— which, incidentally, was my first working day as Acting Comptroller of the Currency, the chief regulator of our nationally chartered banks. That day, Citicorp and the Travelers Group announced what would be nothing less than the biggest financial merger in U.S. history— indeed the biggest U.S. merger of any kind. In succeeding days, the Citicorp-Travelers announcement was followed by oth-

ers— NationsBank and Bank America; Bank One and First Chicago; Wells Fargo and Norwest. “We’ve all been talking about the future,” said one slightly dazed analyst amidst the tide of merger announcements. “But now the future is here.”

The new world of banking may indeed be at hand. But what does it portend for the world beyond the boardroom? These mergers might be good for some bank executives and bank investors, but are they necessarily good for America— and the world? Does the clout to compete in global markets really depend on size? And what will increased numbers of very large banking organizations mean for competition and customer service in domestic markets? Consumers of financial services still have questions about how they will fare in the new banking regime. To what extent— if at all— are retail and small business customers likely to share in the anticipated cost savings of these announced combinations? Or will consumers face higher fees and reduced service in a less competitive domestic environment?

For some consumers, the existence of financial conglomerates raises privacy concerns. Will cross-selling pressures between bank affiliates and subsidiaries— a major rationale for many of these mergers— compromise the confidentiality of customers’ financial information? What certainty do consumers have that their bank will not share that sensitive information with unauthorized end users within the financial conglomerate?

Questions continue to come from many quarters about the consequences of a mega-bank failure. Are they “too big to fail,” or— as Federal Reserve Board chairman Alan Greenspan recently described the hedge fund Long Term Capital Management— too big to liquidate immediately?

Finally, and more to the point, many people questioned and still question how prepared we are in the regulatory arena to protect the public interest in a safe, sound, and accessible banking system for all Americans.

A number of these questions were put to me when I testified before the Committee on Banking and Financial Services of the House of Representatives in April. What I tried to do then— and have tried to do since— was to put this merger activity into meaningful perspective. The fact is, that what began on April 6 of this year was not really a new story at all, but rather the latest chapter in an old



story, one that goes back more than two generations. In 1922, there were no fewer than 9,000 U.S. national banks, and the number has been dropping- almost as fast as this country has been growing- ever since. Today, there are fewer than 3,000 national banks, and that number will almost certainly decline further, thanks to the current merger trend. Much of this consolidation has come about as the result of mergers and acquisitions, with almost 7,000 mergers involving all U.S. banks occurring just since 1980. Even so, I would not be a bit surprised if many of you, coming from places where the banking scene has long been dominated by a small number of large institutions, had some difficulty relating to the anxieties about excessive concentration that many in the United States feel today.

In 1922, most of this nation's largest banks were supervised by the OCC. That it still true today. As you might expect, we have learned a great deal about big bank supervision over these many years, and a number of the lessons we have absorbed have a direct bearing on the challenges posed by the mega-mergers of 1998. For example, our experience shows that bigger banks are not necessarily banks that are qualitatively more difficult for us to supervise. The merger of NationsBank and Bank of America is a case in point. Here we have a merger of institutions of comparable size and complexity, with many common product lines. Because there is relatively little overlap in their branch networks, the competitive concerns that often surface when merger partners prune redundant branches are less of an issue. The OCC has long had a permanent supervisory presence in these institutions, with extensive knowledge of their activities. That will not change when the two become one.

But our experience teaches us something else of real importance, and that is the danger of complacency about this merger or any one like it. Indeed, our supervisory experience shows that in each phase of the merger process- the pre-announcement phase, the transition phase, and the post-consummation phase- pitfalls lurk. In each phase, we have found that, for merging banks and the larger banks they become to be successful banks, requires an abiding commitment to the fundamentals of risk management and customer care. And we have found that strong supervision has an important role to play at every step along the way- in alerting banks to the pitfalls they face, in sharing our experiences about dealing with those pitfalls, and in safeguarding the public's ongoing interest in their safety and soundness.

With this in mind, shortly after the first of the mega-mergers were announced last spring, we convened a group of our national bank examiners most experienced in large bank merger transactions to review some of the specific challenges merging banks are likely to face- and how

banks have successfully dealt with these challenges in the past. Let me take just a moment to discuss just a few of the points and pitfalls that emerged, drawn from the much longer list that our examiners produced.

One of the real challenges for combining institutions is to avoid significant disruptions of ongoing business while the transition to new management is proceeding. When big mergers are announced, some managers will immediately start job-hunting, and the best of those managers are likely to find new positions before their organizations can afford to lose them. This management drain is likely to have particularly adverse effects in critical areas like information systems- generally, one of the most challenging parts of the merger process. It is imperative, therefore, that bank management develops clear plans to ensure the retention and continuity of expert staffing before the merger is announced.

Indeed, we have long known that information systems are often the weak link in any merger arrangement. Two separate systems must be consolidated to a common, Year 2000 compliant platform; two separate systems with limited capacity must somehow be integrated into one with far greater capacity. The combined entities have to be ready to capture, process, and monitor a larger volume of transactions- millions more- than they ever had to deal with separately. Underestimation of transactional demands can lead to computer system breakdowns and processing errors- and the loss of customers.

Bank managers need to be particularly aware of the possibility that new and larger credit concentrations can result from mergers. However, depending on the balance sheet of the combining companies, there can actually be a reduction in the new company's exposure. For example, a more geographically-dispersed balance sheet creates less exposure to regional or local downturns because of its national or global diversity. Conversely, the new company may become more exposed to national or international economic events than before the merger.

As the result of our supervisory experience, we know that these and other issues must be closely watched as the mega mergers announced this year move to consummation- and as the business, systems, and culture of the resulting organizations take shape. And we also know that we must maintain our supervisory vigilance to spot new emerging issues as new combinations occur in the financial industry.

Despite the pitfalls of consolidation and the questions that remain about whether the current round of mega-mergers will meet the expectations of their organizers, the future of U.S. financial services points toward more mergers. There is little doubt that the historical trend toward consolidation

will continue. And it also seems clear that banks of all sizes will increasingly expand their range of product and service offerings, to accommodate the needs of more sophisticated financial consumers.

And the types of combinations possible may soon expand significantly. Right at this moment, legislation is pending before the United States Congress that would facilitate the creation of broader, bigger combinations— combinations not just between banks, but among banks, insurance companies, and securities firms. I am referring to the Financial Services Competition Act of 1998, better known as H.R. 10. This legislation would eliminate or reduce many restrictions on affiliations between commercial banks, investment banks, and insurance companies, and permit what has not been permitted under the law in this country since 1933.

As we contemplate these new types of financial conglomerates, our experience in supervising large institutions has much to offer. That experience teaches us that it is imperative that we, and the other bank regulatory agencies, have adequate supervisory authority to assess how the safety and soundness of the institutions we regulate is affected by activities conducted by, or transactions with these newly permitted types of affiliates. Inexplicably, H.R. 10 does not do this.

We in the United States should have learned our lesson on this score. The savings and loan crisis of the 1980s should have taught us that a significant expansion in powers in a banking organization must not be coupled with a decrease in the safety and soundness authority of bank regulators. It is especially true during the turbulent financial times through which we are presently passing— times that require the highest levels of supervisory vigilance, not less. Indeed, just last week, in hearings held to explore the near collapse and interim rescue of the hedge fund Long Term Capital Management, members of Con-

gress admonished the financial regulatory agencies to be more vigorous to ensure that risks affecting any single institution are fully understood and, where excessive, promptly addressed.

That is why it seems inexplicable that Congress would attach provisions to H.R. 10 that place new roadblocks in the way of bank regulators when they seek information from or seek to examine aspects of operations of securities firms or insurance companies that are subsidiaries or affiliates of a bank in order to evaluate how the safety and soundness of the bank is affected by activities of such a subsidiary or affiliate. According to provisions in the pending legislation, the regulators could act only after they acquired hard evidence that a safety and soundness problem or a violation of the law already existed. By that time, damage to the bank or its reputation could have already occurred. Such restrictions on bank regulators' ability to prevent problems are unprecedented and should not be coupled with a new statutory framework authorizing expanded powers in banking organizations. If this legislation moves forward, these provisions clearly must be fixed.

Cooperation and information-sharing among regulators is crucial if we are to maintain effective and credible oversight of the complex institutions that will become increasingly commonplace in the new world of banking. No regulator's role should be— nor need be— compromised to achieve that result.

The United States today is playing a critical role in helping to steady global markets during these stressful times. We are doing that directly and indirectly: directly, by cooperating with international agencies in working with the most seriously afflicted countries; and indirectly, we hope, by example. Maintaining the safety and soundness of the banking system here in the United States should send a message of reassurance throughout the world and contribute importantly to stabilizing the global economy.

## Remarks by Julie L. Williams, Acting Comptroller of the Currency, before the Risk Management Planning Conference, on credit quality and loan underwriting standards, San Francisco, California, October 16, 1998

It's my pleasure to be with you this morning at another in the long series of successful conferences sponsored by the Federal Financial Institutions Examination Council. As important as they are, arranging these conferences is only one— albeit among the most visible— of the many important functions performed by the FFIEC, which marks its 20th anniversary next year. For these last two decades, the FFIEC and its hard working staff have quietly— yet effectively— brought a high degree of harmony to our bank regulatory structure while preserving the varying institutional perspectives that many regard as our system's greatest strength. Together, through the vital mechanism of the FFIEC, we in the regulatory community can debate and contemplate the important issues that mean so much to the health and prosperity of the our nation's banking system— and our national economy.

These days— days of turmoil and anxiety in financial markets at home and abroad— one domestic banking issue looms above all others, and that is credit quality and loan underwriting standards. You may have already heard me speak on this subject or read the accounts of people who have. One journalist referred to this as my "stump speech." I found that amusing, because, if you've heard it, I think you'll agree that the message I have been trying to convey is not one likely to arouse great popular enthusiasm among our constituents in the financial community. Frankly, I was not seeking an ovation from bankers when I announced in July that OCC examiners would henceforth be spending more time drilling down into bank loan portfolios to identify possible weaknesses and to evaluate banks' credit risk management systems and procedures. I was not campaigning to win any popularity contest among bankers by chastising them last month for making what I called "ugly loans"— loans that, from the day they were made, were structurally defective and exposed the lender to undue risk. And I was not seeking plaudits, when I told members of the American Bankers Association just a few weeks ago that some highly popular consumer loan products— such as high LTV home equity loans to subprime borrowers— made little or no business sense. And now I have even heard the suggestion from some quarters that it is time to talk about something else, lest warnings about credit risk and slipping underwriting standards have the effect of drying up credit just when the stimulative powers of bank lending seem to be urgently needed in the world economy.

This concern is exactly why it is so important that we in the regulatory community continue to focus on this sub-

ject, so that there is no misunderstanding about what we are trying to do and why we are doing it. No banker should get spooked— even in this Halloween season— by our calls to maintain sound credit underwriting standards and to correct lending standards that place a bank at undue risk. Let me make this clear: our *only* interest in criticizing bad loans is to ensure that banks retain the strength they need to continue to make *good* loans— loans that are crucial to maintaining a sound and competitive national economy.

That is a lesson taught by the OCC's more than 130 years of experience supervising the national banking system. But for many of us, the experience is as much personal as it is institutional. Those of us who were in the regulatory arena 10 years ago— as I was— remember all too well how financial institutions were brought to their knees through unwise lending, wishful thinking, inadequate controls, and imprudent management. That was a terrible misfortune— for the banks, their employees, their shareholders, and the communities that depended upon them. Those of us who were there back then remember that, when we needed banks to help support the economy, too many of them were fighting for their own survival, and were therefore incapable of providing the stimulus that might have made a big difference to hard-pressed businesses and consumers.

So, when we express concerns about lending standards, we do it because we are determined that *this* history must not repeat itself. One day, perhaps in the not so distant future, bank lending may once again prove to be the critical factor in determining whether we shall have a robust economy or a faltering one, and we are determined to do everything within our power to ensure that, when and if that day arrives, our financial institutions will be there to do *their* important job in the best way they know how.

Lately there have been reports that some of these regulatory admonitions are beginning to have the intended effect. Anecdotal evidence suggests that bankers have begun to impose additional covenants and increased collateral requirements in their commercial lending. A recent Federal Reserve survey of loan officers showed that, in September, nearly a quarter of responding banks had tightened credit standards for large and middle-market borrowers, while only one out of 35 had loosened them. And, although we do not as yet have definitive confirmation from our examiners, some national bankers are telling us that

pricing and underwriting are starting to improve— at their own institutions as well as at their competitors’.

To whatever extent bankers are responding to worries about an economic slowdown, the change is laudable and encouraging. If your institution is among those that has lately taken steps to strengthen underwriting standards, I commend you. This is the time to renew your focus on any weaknesses that may have already become embedded in your loan portfolio and to develop contingency plans for dealing with existing credit risk in the event that the economic climate does change. Depending on the institution, that may involve bolstering reserves, stepping up collection efforts, reviewing collateral, and upgrading workout capacities.

Yet, even as we zero in on the weaknesses of loans already on the books and how best to deal with them, I believe that we must not succumb to the temptation to declare victory over lax underwriting of new loans. I say this for two reasons: first, because despite what some have suggested, most of the fundamental conditions— including the fundamental strength of our economy— that first led to the slippage in underwriting still exist. Unemployment, inflation, and interest rates remain at historic lows. Consumer spending continues at vigorous levels. Indeed, global instability has brought more liquidity to U.S. capital markets and greater pressure to find profitable outlets for those funds. Although losses in overseas lending and trading activities have been much in the headlines of late, they affect relatively few banks. The recent wave of mergers and acquisitions has had relatively little noticeable effect on competition in financial services, which remains strong. Declining loan demand, which has been reported in some parts of the country, may simply have the effect of tilting the advantage in the credit markets even more decisively to the borrowers who remain, possibly tempting lenders to continue to offer concessions on pricing and terms.

In short, although bank stocks have suffered severely of late, the underlying circumstances that have contributed to lax lending standards at some banks are little different than they were a year ago.

The second reason why I believe it is so important that we stay the course was illustrated by the recent near-collapse of the hedge fund Long Term Capital Management, which I shall refer to as LTCM. The basic facts of this case are probably familiar to you by now. Suffice it to say that this hedge fund, founded in 1994, boasted a blue-chip management team that included a renowned Wall Street trader, two Nobel Prize-winning economists, and a former Vice Chairman of the Federal Reserve Board. Their reputations enabled LTCM to attract billions in loans and investments from banks and investment houses, few of whom appear

to have understood exactly what the firm was *doing* with all of that money. Partly that was because, as an unregulated private investment partnership, LTCM was under no legal obligation to disclose those details to its creditors, and, in this case, the creditors apparently chose not to delve too deeply on their own. It turned out that the billions that they lent were leveraged into billions more— more than \$100 billion in total— which fed a complex, computer-assisted arbitrage strategy known as convergence trading. Then, the sudden turmoil in international financial markets sent LTCM’s assumptions about the movement of securities and currencies into a tailspin, and the losses started mounting. In the 54 days between August 1 and September 23 of this year, when a consortium of creditors announced agreement on a rescue plan, the firm had lost billions and required a \$3.5 billion capital infusion to stabilize its position. That’s a lot of money that is now unavailable for good loans to productive borrowers.

The LTCM near-collapse offers a cautionary tale, both about the importance of maintaining sound underwriting standards and the sudden swiftness with which today’s markets can penalize financial institutions that fail to protect themselves against excessive downside risk.

Indeed, most of the loans and investments seemed to have been based on the reputation and promise of the firm’s management team rather than the underlying creditworthiness of the enterprise. The commercial and investment banks extending the loans to further leverage an already highly leveraged business obviously assumed that LTCM would turn that leverage into profits sufficient to repay the loan. This, in and of itself, is not necessarily a bad thing; it is one of the ways that banks and others assume credit risk through lending. Properly underwritten and controlled, the relationship between risk and reward can be acceptable. Unfortunately, when you combine this type of lending with the lack of any significant structural underwriting protections— in this case, sufficient collateral or covenants limiting the borrower’s ability to further leverage its capital— unwarranted credit risk is often the result.

This situation holds lessons that are just as meaningful for the community banker with a portfolio of small business and consumer loans as for the money center institution that deals in sophisticated hedging instruments and derivatives contracts. Money center bank or community bank, the principles of risk management are the same. Regardless of the size of the credit, the decision on whether to extend it must be made on the basis of the underlying risk of the transaction. While the experience or reputation of a customer or the past performance of a client’s business is and should be relevant to the credit or investment decision, those factors should not be the only or principal elements taken into account in determining whether or not to make loans or engage in transactions.

Lenders must always understand the full extent of their credit and trading exposure to leveraged customers of any size. If, for whatever reason, information about the financial condition and activities of a borrower or counter party is unavailable or impenetrable, the lender must obtain sufficient collateral and covenants to protect its credit risk position.

Finally, bankers must remember that a grain of salt can go a long way where appearances are concerned. Certainly, no banker would approve a loan based on the way a borrower knots his tie; similarly, no banker should suspend critical judgment of a loan's riskiness based on assurances that some fancy new computer program or automated gadget makes that judgment superfluous.

Unfortunately, LTCM's investor/clients appear to have fallen sway to appearances that ultimately failed to coincide with reality and promises that proved empty. The alleged superiority of the firm's quantitative analysis and computer models were supposed to give it an edge over its competitors in identifying- and capitalizing on- temporary anomalies in the values of the financial instruments. Obviously, a point was reached when this turned out not to be enough.

Technology is a powerful tool in helping to understand and manage financial risk. The risk modeling techniques used by LTCM may have been oversold, but that does not detract from their value- when used properly, under the

oversight of experienced personnel. Or, take credit scoring models, which, by reducing loan processing times and costs and helping lenders to price risk more realistically, have worked a small revolution in consumer lending. But technology is merely a tool; an adjunct to- not a substitute for- the sound judgment of bankers and basic techniques of risk management. Financial decision makers must understand how to interpret the output and limitations of quantitative models. The fact that a borrower or counter party employs sophisticated modeling techniques in its business is no substitute for a lender having collateral to protect its position in the event that the borrower's financial condition comes under stress. And, again, that applies to small banks as well as large ones.

As I speak to you today, it appears that the seasons are changing in our financial world. But weak lending standards are never in season. The strength of our economy does not depend upon bankers making bad loans. In fact, poorly underwritten loans are one of the best ways that I know of to weaken financial institutions and the communities that depend upon them.

A healthy banking system will ensure that worthy borrowers never have to worry that the credit they depend upon will not be there when they need it. I urge you to do your part- to make sure that our banking system is there to do its part- in keeping our economy- and our communities- strong and vibrant.

## **Remarks by Julie L. Williams, Acting Comptroller of the Currency, before the Consumer Bankers Association, on customer privacy and information security, Aventura, Florida, October 26, 1998**

Thank you and good morning. It is a pleasure to join you here in Aventura, where I trust that, in the company of the sunshine and your peers, you will enjoy some deserved relief from the strains and aggravations that are too often the lot of consumer bankers these days.

I suspect that no one here today was around when the CBA was first established back in 1919, but those of you with years in the business under your belts will recall a time when banking was a good deal less complicated and more predictable, and when the future of the banking franchise was not clouded by the competitive and technological challenges that bankers face today.

Yet, while some might lament the passing of that simpler age, it is irretrievably gone. Today's world is a place of relentless change and competition, of unforgiving markets and customers who have no compunction about taking their business elsewhere. The nature of competition itself is in constant flux. Where it was once enough to match up against the financial institution across the street or across town, your customers' business today is up for grabs from competitors across the nation and, in some cases, around the world. And, as you know, the competition has become more sophisticated in identifying and appealing to consumer tastes and preferences. While it is certainly true that financial products and services are priced and sold more like commodities than ever before, I firmly believe that it is a serious misconception to think that intangibles— such as service, security, and convenience— no longer matter to consumers. In fact, as securitization and wider competition make the financial marketplace more uniform, it seems likely that those intangibles will become even more prominent on the battleground of future competition.

Let's call them "competitive intangibles," and focus on one in particular: customer privacy and information security. Rarely has an issue landed in our midst with more dramatic impact. And when it comes to privacy, have no doubt that banking— the quintessential information-driven industry— cannot avoid the spotlight.

The Consumer Bankers Association has long recognized this and has worked actively on privacy issues affecting the banking industry. Over many years, the industry has set— and achieved— high standards for safeguarding confidential data and has built an impressive reservoir of consumer trust.

But today, some worry that banks have not reacted quickly enough to emerging customer concerns and new risks to customer privacy brought on by rapid advancement in technology and the "commoditization" of personal information. In recent Congressional hearings, information brokers and pretext callers revealed the shocking ease with which they were able to pry loose personal financial information from overly-accommodating bank customer service personnel. Banks are themselves leading users and traders of their customers' personal information. Indeed, the recent wave of mergers in the banking business is explicitly motivated in part by opportunities to gather and distill data— " mining" in the current phraseology— on an expanded customer pool.

Three impressions emerge from the current attention to the privacy issue. First, public concerns about the proper— and improper— accumulation and use of personal information are likely to increase with the continued explosive growth of electronic commerce and the Internet. Second, providers that go the extra mile to satisfy these concerns will be at a material advantage over those that do not. And third, to the extent that business is perceived as not living up to customer expectations regarding the use and safekeeping of personal information, pressure will continue to build for government action that could lead to restrictions on your ability to use precious information resources.

Although the information revolution has surely heightened these concerns, technology has long been viewed as a challenge to privacy. So, the sensitivity of customers to this issue should not come as a surprise. It is easy to forget that 1984, George Orwell's nightmare vision of a technologically-sophisticated Big Brother, was published almost 50 years ago.

As longstanding leaders in the introduction of technology to the marketplace, bankers are not unfamiliar with the challenge of making consumers comfortable with innovations that alter the way business is traditionally conducted. Credit cards and automated teller machines are success stories whose importance should not be overlooked, for they illustrate that, even where something as fundamental as money is concerned, consumers are willing to accept change in return for perceived benefits— in this case, greater access, convenience, and choice. Consumers *want* the chance to realize bigger returns on their savings and investments. They *want* the opportunity to obtain ancillary

banking products and financial products tailored to their specific needs and desires. And they recognize that, in order to deliver those products, financial institutions have a legitimate need for relevant information about their customers.

In short, consumers *want* what bankers are increasingly in a position to offer, thanks in large part to advances in information technology. But what customers clearly *don't* want are unpleasant surprises that undermine the trust and confidence they place in banks. They *don't* want their personal information to be used for unanticipated or undesired purposes, and they want to be confident that their information will not be misappropriated from the bank by other parties.

Shortly after becoming Acting Comptroller, I convened a Privacy Working Group within the OCC, and asked it to look at the performance of national banks in addressing various privacy issues. Although the group's work continues on, it has already identified some developments that I want to share with you today.

Most of the banks we have spoken to have adopted privacy policies and promises, usually modeled on the eight principles recently adopted by the leading bank trade organizations, including the Consumer Bankers Association. Among these principles are recognition of the customer's expectation of privacy, limitations on the use, collection, and retention of customer information, control over bank employee access to that information, and more. Most banks that have Web sites list and sometimes discuss their privacy policies. This kind of disclosure represents a growing and encouraging trend.

However, when I last spoke on the subject of privacy, back in May, I emphasized that outside parties with a stake in the privacy debate— public interest organizations, members of Congress, and the regulatory agencies— would be closely monitoring the extent to which financial institutions were actually embracing and implementing the industry's principles. Information developed by our working group suggests that there is room for improvement in this respect. More banks need to adopt or adapt explicit internal policies and procedures to implement their own privacy principles. Others will need to perform a more comprehensive review of their existing policies and procedures to make certain that they are consistent with their new statements on privacy and information confidentiality. In some cases, employee training will need to be refocused on privacy issues, to ensure that policies are understood and respected.

Another focus of our working group has been on industry compliance with the so-called "opt-out" affiliate information-sharing procedure in the Fair Credit Reporting Act,

known as FCRA. The pertinent provisions of that act require that banks provide "clear and conspicuous" notification to customers explaining that they will share information with affiliates unless consumers exercise their right to opt out.

When I delivered my May privacy speech, I reported anecdotal evidence that some financial institutions were not in compliance with the letter or the spirit— or both— of the FCRA provisions. Our Privacy Working Group indicates that this is still too often the case. We can find too many disclosure statements that lack specificity, clarity, and simplicity. They are too often opaque and obscure, rather than "clear and conspicuous." They place the burden on customers to provide a long list of information, including, in at least one case, account numbers for each account for which information is not to be shared. Too often we found disclosure information in fine print, buried in a mass of equally tiny type, along with other required terms and disclosures.

In short, we continue to find that consumer anxieties— based on the lack of clarity and consistency in banks' disclosure policies and practices— are not entirely unfounded. Certainly, while banks have come a long way in addressing consumers' concerns, they clearly have more work to do in this area. Information sharing that is open and honest can be a boon for both banks and consumers.

Indeed, as I suggested at the outset of my remarks, privacy has increasingly become a competitive issue. Former Federal Trade Commissioner Christine Varney suggested that "in the Information Age, privacy may well become a market commodity" in global commerce. And in Europe, the treatment of consumer privacy has advanced well beyond that.

This month— yesterday, in fact— the European Union's privacy directive went into effect. Predicated on the idea that privacy is a basic human right, this directive imposes a high standard of protection for consumers dealing with financial and other firms in the nations of the EU. The directive *requires* that consumers get disclosure statements on how personal information will be used and the option of preventing companies from sharing information about them. Furthermore, the EU directive gives consumers *specific legal remedies* in case personal information is misused. And it expressly prohibits the transfer of personal data out of the EU to a third country *unless* that country ensures an adequate level of privacy protection. Right now, the United States is not on the list of countries that meet the European standard.

The EU directive does make allowance for special contractual arrangements with individual financial institutions, arrangements that would allow them to continue doing

business in the EU as long as EU-conducted audits find these institutions to be in essential compliance with national privacy laws. The adoption of practices that meet European privacy standards would not only permit U.S. institutions to continue doing business in the EU, but could also have the effect of promoting higher privacy standards for financial institutions operating in the United States.

Just because EU policies are right for Europe does not necessarily make them right for the United States. Each of us has unique traditions, customs, and values. Yet privacy is clearly an issue that American consumers care about. They do today and they always have. Therefore, the way in which U.S. banks recognize and react to privacy-related concerns, such as how confidential consumer information is used and how it is protected from misappropriation, can be a "competitive intangible"—either an asset or a liability—depending on the bank's actions. Given what we know about the level of consumer anxiety about privacy, when this issue is handled well, it can become a powerful marketing tool and an important source of customer loyalty.

When I testified before Congress on privacy issues in July, I told the House banking committee that all of us—lawmakers, regulators, and bankers—were in it together in meeting the public's demand for convenience, safety, and privacy in their financial dealings. At the OCC, we have worked to advance the joint privacy interests of banks and consumers. In cooperation with other federal regulatory and law enforcement agencies, we issued an advisory letter to national banks, alerting them to the dangers of pretext phone calling and identifying appropriate steps by which to better safeguard customer information. We promulgated new policies to clarify our ability to examine national banks for FCRA compliance. Soon, we expect to release "best practices" guidance for banks on two subjects: Web site disclosures and implementation of privacy principles and promises, and disclosures and practices for the affiliate information-sharing procedures under FCRA. And just last week, we convened a Privacy Forum, which brought together representatives of the financial services industry, consumer groups, and government staff to discuss many of the issues I have raised here this morning.

We have also cooperated with Congress to strengthen the legal framework for dealing with those whose actions undermine public confidence in financial privacy. Now awaiting the President's signature is the Identity Theft and Assumption Deterrence Act of 1998, which criminalizes identity theft, gives victims the ability to seek restitution, and establishes in the Federal Trade Commission a central clearinghouse to receive complaints and assist victims. When it is signed, this law will help us to arrest what is today one of the fastest growing types of financial fraud.

Not enacted by Congress but hopefully ripe for passage in the next Congress is a bill, the Financial Information Privacy Act, that would establish sanctions for unscrupulous information brokers who "steal" confidential customer information from financial institutions through techniques such as pretext calling.

Yet, although regulators and lawmakers have important roles to play in safeguarding the confidentiality of consumer financial information, the primary burden rests with you who have the most to gain from it. In our free market economy, that is as it should be. It continues to be the position of our government that the best way to advance the interests of the American people in a free and unfettered flow of information and goods and services lies in applying the minimum amount of regulation and government intervention that is consistent with the public welfare. Just how much intervention that involves will depend upon the steps that the industry takes to establish and implement its own policies and principles in the coming months.

Self-regulation offers banks the ability to shape their own policies and avoid being subject to the one-size-fits-all approach that might be mandated under the law, while still effectively addressing customers' privacy concerns. Through enlightened self-regulation, banks can preserve access to customer information without impinging on customers' right to privacy. And that will help ensure that our information-driven banking system remains safe, sound, and competitive in the years to come. So I urge you, in each of your institutions, to act vigorously to demonstrate that the banking industry can make self-regulation work.



## Remarks by Julie L. Williams, Acting Comptroller of the Currency, before the McLean Chamber of Commerce, on the effects of mega-mergers on small businesses and community banks, McLean, Virginia, October 28, 1998

I am delighted to have the opportunity to join you at your luncheon today. This is partly because I count a number of personal friends in the audience, but also because I am a big believer in the importance of free and open communications between government, the entities we regulate, and the customers they serve.

The Washington metropolitan area has had direct experience with one of the most significant developments in the financial services industry in recent years— the trend toward consolidations and mergers, and, this year, the “mega-merger” trend exemplified by the merger of NationsBank and Bank of America. What I would like to talk about today are two issues prompted by this new age of consolidations and mega-mergers in the banking industry. First, how do these mega-mergers affect the availability of credit and financial services to small business and entrepreneurs? And, second, where do these mega-mergers leave financial institutions that are less than mega-sized, notably our community banks?

Mega-mergers have in fact raised a host of concerns, foremost among them being that the price, quality, and availability of financial services will suffer in their wake. In some major markets, critics argue, big mergers will bring diminished competition among financial providers, which cannot be good for the average consumer. Others warn about a decline in the vitality of our communities, as merged institutions that were once local mainstays consolidate their headquarters out of town. And smaller customers, particularly in the business community, fret that the mega-institutions that result from these mergers will turn a deaf ear and an indifferent eye to their needs and choose to concentrate their vast new financial clout on wealthier clients and the prospect of bigger returns.

These concerns are especially meaningful for small businesses, given their traditional reliance on commercial banks for their credit and other financial needs. One recent survey showed that 87 percent of all small business owners had some sort of commercial banking relationship. As of the end of 1997, these banks were responsible for more than 60 percent of all small business credit and more than half of all loans used to finance the purchase of equipment and vehicles by small firms. Commercial banks hold the lion's share of small business checking accounts, and perform a wide variety of crucial financial functions— safekeeping valuables, managing cash, keeping the books, issuing letters of credit,

converting foreign currencies, and innumerable other financial and fiduciary services— for firms that lack the size and resources to do these things on their own. Given the extent to which small business relies on banks— and the extent to which our nation relies on small business to generate jobs, innovation, and economic growth— it would indeed be a calamity if banks were no longer able or inclined to play their traditional role of financial provider to the small business community. Yet, I feel confident in saying that this scenario will not come to pass. In fact, I foresee a future in which small business enjoys even greater access to bank credit and financial services than ever before. Let me take a few minutes to explain why.

First, it is important to remember that the mammoth mergers of recent months are merely the latest phase of a long process of consolidation in the banking business. In 1922, there were more than 22,000 state and nationally chartered commercial banks in operation compared to fewer than 9,000 today, despite the fact that, over that more than 75-year period, our nation's population grew nearly threefold and our gross domestic product more than eightfold. The leading factor in this dramatic consolidation has been the increase in merger and acquisition activity. There have been almost 7,000 bank mergers since 1980 alone, and they have involved increasingly large institutions. Despite the accelerating consolidation of the banking business, the evidence demonstrates that banking services to small business have become *more* available in recent years, not less so. According to surveys conducted by the National Federation of Independent Business, the number of small and medium-sized firms reporting difficulty in obtaining credit has been declining steadily in recent years. A recent Federal Reserve report to Congress shows that the dollar volume of small business loans issued by commercial banks grew by more than 5 percent between June 1996 and June of this year, with the highest growth occurring in the category of loans of under \$100,000. The same study reports a new aggressiveness on the part of bankers in seeking out small business customers, by offering better terms, and additional products and services.

In short, recent history gives us no reason to assume that small business credit and other financial services will inevitably dry up as a result of the consolidation in banking. Instead, the record shows that, over time, the opposite has more often been true.

One basis for my optimism about the availability of credit to small business is that even very large institutions have increasingly made small business banking an integral part of their overall business strategy. They do this for a very sound reason. Small business customers can be excellent customers indeed. With so many demands on their time, entrepreneurs place a premium on convenience, and so are more likely to conduct all of their banking business with their primary lender and to purchase ancillary financial products and services where they bank. Moreover, despite the relatively high failure rates of small businesses, small business loans tend to be better collateralized than many other kinds of loans and their repayment histories do not compare unfavorably to other classes of borrowers.

That's why many larger banks have aggressively targeted the small business market in recent years and have developed innovative ways to serve that market. In fact, some of the *most* innovative small business programs of late come from many of the very same banks that are today in the process of implementing giant mergers. Some have introduced types of small business resource centers, offering one-stop shopping for a wide range of products and services. Another bank is taking advantage of *its* size to help small businesses compensate for *theirs*, by buying long distance telephone and overnight delivery services and office supplies in bulk and reselling these commodities at a substantial discount to small business clients. Innovations in lending have cut paperwork and costs for both lenders and small business borrowers. One bank offers small business loans of up to \$100,000 by way of direct mail: it simply plugs credit report data into a computer model, which establishes a maximum loan amount and interest rate. No business plan or financial data is needed. Interestingly, that same bank is in the process of merging with another leading small business lender which takes a radically different approach, emphasizing larger loans and more hands-on involvement.

Another development that I think holds real promise for expanded small business lending is securitization. The growth of secondary markets for real estate, education, automobile, and other types of loans is one of the real financial success stories of our times. It has helped millions of Americans achieve their goals of home ownership, a college education, and a better life, while enabling lenders to better manage the inherent risk of the loans that they make for those purposes.

Until recently, however, there was essentially no secondary market for small business loans. That was partly because the issuers of small business-backed securities did not enjoy the same legal and regulatory accommodations long enjoyed by residential mortgage-backed securities. Congress remedied that state of affairs in 1994 with legis-

lation that the OCC implemented by adopting regulations a year later. Since then, the problem has been the lack of uniformity in underwriting and documentation standards for small business loans, which make it difficult for potential purchasers of these securities to form accurate estimates about the riskiness of the underlying loans. But that hurdle, too, may be overcome, as more and more small business lenders employ credit scoring models in the underwriting process. This will generate pools of small business loans that have been evaluated based on common criteria, and give secondary markets the information they need to evaluate and price these securities. And that should spur small business lending generally, especially by smaller banks that have lacked the resources to hold in portfolio many of the loans they originate.

Clearly, market forces today are driving significant improvements in the availability of credit and other banking services to small businesses. Mega-mergers will indeed alter the financial services landscape, but the evidence clearly shows that the small business loan market is currently alive and well, with many financial institutions, bank and nonbank, vying to make good small business loans and provide the additional financial services that entrepreneurs need to build their businesses.

I have heard it suggested that, as long as the small business community has access to an adequate supply of funding for start-up and expansion, it matters little *who* is supplying it. According to this logic, it is quite all right if giant banks crowd out the smaller ones, provided that the survivors continue to compete amongst themselves.

But I believe that the structure of our financial system, with its mix of large and small institutions, *does* matter. Structure and strength go hand in hand. In one sense, small banks are no different from- and no less important than- the small businesses they serve. Both make a disproportionate- and indispensable- contribution to our nation's economic well-being. Community banks, like small businesses generally, are where new ideas often take root and blossom. What these banks lack in size, they compensate for with nimbleness, adaptability, knowledge of local markets, low overhead, and personal service.

The attributes that define community banking are the attributes most prized by small business people and entrepreneurs. Indeed, the small business market is where community banking has traditionally been the strongest. Small business people want what community banks have to offer: the personal touch, a broad service menu, and local management. And that is why community banks are able to maintain their important position in our fiercely competitive financial world. Community bankers pound the pavement in search of new customers and visit existing customers in their local places of business, learning their

needs and how best to serve them. Community bankers pride themselves on fast turn-around, low prices, and personal assistance, not just in making loans but in servicing them over their life. And they have become specialists in the origination and sale of Small Business Administration (SBA) and other guaranteed loans; more than 6,000 banks are currently involved in SBA lending programs, and some of the country's largest SBA lenders are community banks.

Community bankers do all these things because that is what it takes to survive in a world dominated by mega-institutions. And *because* they do these things, there is every reason to conclude that community banks will continue to play a vital role in our nation's financial future. Today, two-thirds of all banks in the United States have less than \$100 million in assets. And while some of these banks are constantly disappearing, due to merger or consolidation or for some other reasons, new banks spring up just as rapidly to take their place. That is why, despite the wave of mega-mergers, average local market concentration in the financial services sector is about the same today as it was 10 years ago. That means that small businesses can count on a sure, steady supply of high quality financial products and services today and into the future.

At the Office of the Comptroller of the Currency, *our* commitment to improving access to financial services for all Americans- including those who own and operate small businesses- takes many forms. Among the most important has been our shift in emphasis on what constitutes

compliance with the Community Reinvestment Act, or CRA. These days, we take a broader view of community development, and encourage national banks to make small business lending an important component of their overall commitment to the communities they must serve. Seeking regulatory approval for their merger, for example, NationsBank and Bank of America recently announced a CRA commitment to make \$180 *billion* in small business loans over 10 years- a tangible example of how, under enlightened law and regulation, mega-mergers can *increase* the availability of financing and financial services to entrepreneurs. And we have recently announced that we intend to survey our largest banks to verify how they keep track of how they satisfy these publicly-announced CRA commitments.

The trends we are seeing in the banking industry today are simply steps along a path that should lead to a healthier and more competitive U.S. economy. Through sound public policies and a strong free market, I believe that we can safeguard access to- and the adequacy of- the financial resources that the small business community must have in order to do what you do best- and that is to serve as the engine of our nation's initiative and creative imagination. And I think you will find that even in this well-publicized era of mega-mergers, our community banks will continue to play a vital role in supplying small business and other forms of credit and financial services. The dynamism of the small business sector is a big reason why we have enjoyed the unparalleled economic expansion of recent years. Please keep doing whatever it takes to keep making that happen, and I promise you that we will do our part, too.

## Remarks by Julie L. Williams, Acting Comptroller of the Currency, before the Exchequer Club, on customer service and competition in the financial services industry, Washington, D.C., November 18, 1998

Good afternoon. It is a privilege to address members of the Exchequer Club— and a particular pleasure for me, since I have come to know so many of you, over the years, as friends and colleagues.

As many of you know, I have often spoken on the *legal* issues associated with the evolution of the business of banking. Today, I am going to discuss a more fundamental challenge the banking industry faces— one that will either enhance or impede the ability of banks to positively influence the evolution of their business. That challenge is customer service.

To speak at all on this issue is a reflection of the changed and increasingly competitive financial services environment in which banks operate. Customer service is a key competitive intangible— a factor that will profoundly affect the future of competition in financial services. It requires providers to deliver the mix of products and services that customers need and want, through convenient and accessible delivery mechanisms, and to be sensitive and responsive to customer desires and concerns. It also means the difference, long term, between a business that is robust and one that withers. And that is why, as a supervisory matter, the OCC cares about how well banks are responding to this challenge.

When I talk to veteran OCC employees, I am reminded of the extent to which the business of bank supervision has changed in our lifetimes. The concept of “bank supervision” is itself a product of our age. One OCC examiner who retired in the mid-1970s after more than 40 years of service told an interviewer at the time that “our method changed very little” from his first day on the job to the last. Examiners of his generation counted the cash, balanced the ledgers, verified the bonds, reconciled correspondent accounts, and pretty much left it at that.

Things could scarcely be more different today. Today, although we perform many of the same types of tests and checks in the course of our regular examinations, that’s just the beginning. Today, we recognize that the picture of a bank’s health that emerges from a traditional examination is merely a snapshot of the bank’s current condition, which may say little about how well that institution is prepared to face future challenges.

Over a period of years we have come to appreciate the importance of what now seems almost self-evident: first,

that bank supervision must, to the maximum extent possible, be prospective as well as retrospective; and, second, that the safety and soundness of our banks depends to a significant degree on the larger environment— social as well as economic— in which financial institutions operate. Although some of these environmental factors may lie entirely or partially beyond the bank’s control, they are no less crucial to its health. And that’s why, under our supervisory regime, we not only evaluate the bank’s current condition— taking the snapshot, if you will— but also try to assess its efforts to understand, anticipate, and plan for future contingencies. Thus, modern supervision is not simply a matter of applying sets of laws, rules, and regulations. It involves, on the one hand, supervisory strategies individualized to the risks presented by particular institutions or activities, and, on the other hand, industry-wide guidance and advice regarding emerging risks and challenges that may affect the business and health of many banks.

Over the last 10 years especially, we have strived to develop a more sophisticated understanding of risk and its components, and to apply this understanding to our supervision of the National Banking System. In 1995, we introduced “supervision by risk,” a framework that has been widely embraced by bank regulators in the United States and abroad. This offers a broader, more comprehensive view of the sources of risk in financial institutions.

Some of the nine risk factors we now consider in our supervisory activities— credit and liquidity risk, for example— would be entirely familiar to OCC examiners of old. And, as acting Comptroller, I have talked a great deal about credit risk and other core banking issues. I have repeatedly stressed the importance of bankers not making *bad* loans so that they can continue to make the *good* loans upon which their business— and our nation’s economic vitality— depends. But, while sound loan underwriting is a *necessary* condition for success in today’s banking world, it is not alone a *sufficient* condition. It is not simply the size or even the quality of the loan portfolio that separates today’s market leader from the also-ran. Today, we know, risk takes many forms, and managing it takes multiple talents.

We find risk in omission as well as commission. Risk— strategic risk— exists in the products and services that bankers *cannot* or *will not* provide to their customers, as well as in those that they *do* offer. It exists in the *spirit* of

compliance with laws and regulations, as well as the substance. And it exists, more than ever before, in the realm of public opinion, where decisions are made every day that affect the environment— again, social as well as economic— in which bankers operate.

We call this "reputation risk," and define it in our official guidance as "the current and prospective impact on earnings and capital arising from negative public opinion that may expose the institution to litigation, financial loss, or a *decline in its customer base*. Reputation risk requires bankers to exercise an abundance of caution in dealing with customers and the community."

"Caution," in this context, does not mean timidity. Rather, it means that bankers need to weigh their business decisions— decisions that might be perfectly above-board from a legal or regulatory standpoint— against the reaction those decisions might elicit from the customers and communities they are chartered to serve. Customer *perception* is the relevant reality. Actions *perceived* by a customer to be unreasonable or unfriendly may trigger a backlash whose costs can easily exceed the narrow value of that customer's business. In short, when we talk about reputation risk, we are referring to how well bankers fare— individually and as an industry— at the court of public opinion.

I think we recently saw evidence of this process in action. Most analysts agree that the recently-concluded 105th Congress was tough on the banking business. Bankruptcy reform and regulatory relief, two measures much desired by the industry as a whole, failed to pass. Financial modernization legislation would have combined measures liberalizing affiliations between banks and securities and insurance firms, but also cut back on existing bank powers in important areas, and failed to provide banks with any "chartering up" to compensate them for their assumption of a portion of the FICO (Financing Corporation) bond interest payments that had previously been the sole responsibility of the thrift industry. Most bankers came away from the 105th Congress disappointed.

This legislative parsimony did not seem to affect other types of financial institutions. Some— most— fared better than banks. Perhaps bankers were less adroit or less unified in presenting their case to lawmakers. Or perhaps others had worked more effectively at the court of public opinion, so that when all was said and done, lawmakers felt more inclined to take the positive action desired by an industry group held in higher regard by the general public. Put another way, it is possible that bankers came away largely empty-handed from the recent legislative wars because they had failed to convince the public of the importance *to the public* of issues deemed to be important *by bankers*.

Unfortunately, substantial evidence supports the view that bankers have suffered reputation risk because the public does not perceive banks generally as outstanding service providers. At best, bankers get average grades from their customers. In a recent Harris Poll rating customer service, banks lost ground, placing somewhere in the middle of the pack— above the tobacco industry and the managed health care industry, but well below the airlines, telephone companies, and the producers of computer hardware and software. Another survey showed that nearly two-thirds of bank customers were dissatisfied with their bank's response when a problem was brought to the bank's attention. And a 1996 study by the American Bankers Association revealed a long, steady decline in virtually every benchmark of customer satisfaction— both in absolute terms and in comparison to customers of other financial providers, including credit unions and savings institutions.

Nothing seems more responsible for bankers' poor showing in these surveys than the issue of service fees— an issue that, frankly, has generated more heat than light of late. Noninterest income has certainly become a matter of growing importance to banks. In the last four years, it has increased from 36 to 41 percent of total revenue for national banks. The vast majority of this increase is related to asset management, trading activities, and fiduciary-type services increasingly performed by banks— activities that have helped them stabilize and diversify their income stream, better control interest rate risk, and reduce their dependence on the more volatile market for loan products. Fee income has made and will continue to make an important contribution to the safety and soundness of the national banking system.

Of course, the income banks derive from— for example— foreign currency transactions is not the source of the current controversy. Rather, what has consumers up in arms are the service fees that they pay directly, fees that seem to pop up where they never existed before. In 1996, one consumer organization counted no fewer than 100 separate fees being imposed on bank customers, and the evidence suggests that number has grown substantially since then. Not only has the number of fee-carrying services increased, so has their size. Recent surveys show that credit card late fees have risen 75 percent and safe-deposit box rentals 61 percent over the past five years. And ATM fees— a matter of a few dollars to most consumers— have become targets of state as well as federal legislation.

When passions are running as high as they are on this subject, it becomes difficult to evaluate the subject on its merits. In fact, the most recent data show that, while other categories of noninterest income have been rising steadily as a percentage of commercial bank assets over the past three years, service charges, the lightning rod

for consumers, have actually declined slightly in percentage terms. Moreover, most of the fees banks charge can be easily justified. Bankers are entitled to recoup their investments in the technology and infrastructure that consumers increasingly take for granted. Bankers are entitled to make reasonable and equitable charges for services rendered. And, given today's vigorous competition in the financial services market, consumers who are unhappy with their bank can usually shop around in search of a deal they like better.

But it's also clear that, whether particular fees are justified or not, in too many cases, they have been imposed and raised without adequate explanation, without gauging their effect on public opinion, and without calculating the trade-off between short-term income and long-term reputation risk. In dealing with their customers and communities, in other words, some bankers have fallen short of the "abundance of caution" that is so crucial in protecting and enhancing their reputations and the value of the banking franchise over the long haul.

Greater judiciousness and discretion in the application of fees may help to ease the frustration consumers increasingly express about their banks. But I view the fee controversy as a subset of a larger challenge. The challenge is improving banks' overall reputation for customer service, so that banks are recognized as *outstanding* service providers. That means offering consumers convenient access to the products and services they want, at competitive prices. It means working to identify and develop new customers and new markets that offer new business opportunities, but which, in order to be successfully tapped, may require innovative, non-traditional approaches. It means improving communications to customers and communities, to let them know what banks have accomplished on their behalf. It means building customer relationships based on trust that will endure over time and serve customers' evolving financial needs over the course of their lives.

This is critical to the *long-term* successful evolution of the business of banking.

Recent history offers poignant lessons in the perils of neglecting quality and customer satisfaction. We know that, during the 1980s, in key industries like automobile production, consumer electronics, and heavy machinery, such neglect led to catastrophic losses in market share and complete business failures when competitors, foreign and domestic, arrived on the scene and raised consumer expectations. As it is now, it was then unrealistic to expect that these competitors could be eliminated or simply excluded from the marketplace. As a matter of survival, some of the affected companies responded

positively, reoriented their practices and priorities, and became successful competitors in the global economy. Others never did.

For a very long time and still- but to a lesser degree- today, banks have enjoyed a privileged place in our transaction-based economy. Their crucial role in the payments system has given them a built-in customer base- business that came to them almost automatically. But that may be changing. Electronic payments, Internet commerce, smart cards- these and other technological innovations may transform the payments system, redrawing the boundaries of the playing field, and eroding the dominance that banks have long enjoyed. Already, computer software companies are positioning themselves as financial intermediaries, where their experience in making technology user-friendly should stand them in excellent stead. It may be relevant to mention again the Harris Poll results that placed the computer industry well ahead of the banking industry in customer satisfaction.

In other words, although the last 20 years or so have posed serious competitive challenges for banks in this country, a greater test may be still in the offing. As providers in other key sectors of our economy have proved, change is possible, even when it involves modifying longstanding beliefs and behaviors. For bankers today, it is not only possible, but vital.

We in government have an abiding interest in your success. When President Abraham Lincoln created the national banking system back in 1863, he saw national banks as the instrument through which the economic integration and prosperity of the United States could be achieved. That was a monumental challenge. But the challenge was met. Today's America- and our banking system- is the envy of the world.

Today's challenges in financial services are different. Today, to put it mildly, there is no shortage of viable financial institutions, as there was in Lincoln's time. But today, a financial institution's future in a highly competitive marketplace depends upon the degree to which it can successfully combine such things as sound lending standards, community involvement, outstanding customer service, and sensitivity to customers' concerns on issues such as privacy.

Those are the diverse challenges that will separate the financial services winners from those that lag behind in the new millennium. At the OCC, our interest is in seeing national banks emerge among the winners. A strong and prosperous America depends upon our national banks meeting the challenges of the next century as successfully as they met those of the last.

## **Remarks by John M. Abbott, Deputy Comptroller for International Banking and Finance, Office of the Comptroller of the Currency, before the Institute of International Bankers, on the supervision of branches and agencies of foreign banks, New York, New York, November 9, 1998**

Good morning. I appreciate the opportunity to speak again at the Institute's annual regulatory examination and compliance conference.

Today, I plan to talk about the FBO [foreign banking organizations] program, supervision by risk, interstate banking and some of the recent changes we at the OCC have made in the supervision of federally licensed branches and agencies of foreign banks. We have recently organized ourselves in a way that allows us to be able to provide nationwide supervision of OCC-licensed FBOs. We believe this structure is a fairly natural evolution out of broader trends. We also think it provides a supervisory structure that is responsive to the interests of many members of the institute.

Any of you who are repeat attendees to these sessions will be well-versed in the FBO program. I do not want to repeat oft-told tales, but I think there are several elements of the FBO program that are worth highlighting for the theme I want to develop.

The FBO [foreign banking organizations] program, which was implemented in 1995, is an interagency effort to enhance the supervision of U.S. operations of FBOs. The OCC, Federal Reserve Board, Federal Deposit Insurance Corporation, and state supervisors all participate in the program.

One of the objectives of the program was to improve coordination among the various agencies that have responsibility for the supervision of FBOs. This is a complex exercise in matrix management since coordination needs to flow along several axes. There is a home-host dimension so one axis of coordination needs to be between U.S. supervisors and home country supervisors. There is a parent/branch dimension, so another axis of coordination needs to be between the U.S. supervisors and the parent bank. Then there is the interagency axis of coordination here in the United States among the various agencies, state and federal, that have responsibility for different pieces of an FBO's operations in the United States. For a bank with operations spread out around the country, as well as around the world, this can be a complex process.

On the whole, I think the FBO program has introduced major improvements in overall coordination. Certainly there have been major advances in home/host coordination and in parent/branch coordination. From my perspective, there have also been major improvements in the interagency

coordination here in the United States. However, from reading some of the articles in the Institute's bimonthly *International Banking Focus*, I suspect this latter judgment may not be fully shared by all of you.

Beyond better coordination, the program and the products developed for the FBO program allowed a revamping of the supervisory approach we in the U.S. take toward foreign branches. Instead of treating branches as if they were standalone entities, we are now able to take a more top-down approach, taking into account the financial condition and future prospects of the FBO's parent company, along with the strength of support that may be provided by the parent to the FBO. Also analyzed as part of the FBO program are 1) the supervisory regime of the home country; 2) the home country's accounting standards; and 3) the condition of the home country's financial markets. Another facet of the program is an attempt to evaluate the combined operations of the FBO in the United States as if they were a single unit and to provide an annual summary of condition letter to the parent company. I think we have made progress on this, but it can still be a pretty federative process, given the number of jurisdictions that can be involved with any single FBO.

While the FBO program has been successful in improving the supervision of FBOs and coordination among regulators, it is based on the principle of shared authority and responsibility for various aspects of the program among all state and federal regulators that participate. However, participating state and federal regulators retain their respective authority, as well as their regulatory, supervisory, and examination responsibilities for federal branches and agencies within their jurisdictions. (Given the U.S. legal structure, there is a limit to how much simplification and streamlining is possible.)

As we try to evolve and perfect the objectives of the FBO program, I believe the OCC, because of its ability to offer a federal license in states across the country, is well placed to carry forward the streamlined and more coherent supervision that is basic to the FBO program. But that is a theme I want to return to in a moment.

The evolving structure of the FBO program has had a major impact on how the OCC approaches the supervision of foreign banking organizations. Another development that has been equally important is the adoption of supervision by risk (SBR).

The OCC began introducing the concept of supervision by risk back in 1993. The SBR program was formally implemented by the OCC in 1996, and SBR has since become the de facto standard for supervising banking institutions in the United States and is rapidly becoming the world standard.

SBR incorporates a top-down examination approach and an important forward-looking element. This forward-looking element contributes to the identification of emerging risks.

SBR is a dynamic process that allows us to tailor our supervision to the risk profile of a particular bank, foreign branch, or the consolidated entity. SBR allows us to better use our resources to focus on the areas of highest risk in our banks and FBOs. This also helps us to reduce supervisory burden.

The SBR program applies to all entities that we supervise, including FBOs. We identify the quantity of risk, along with the quality of the risk management systems - the tools used to manage the risks.

The four aspects of an effective risk management system are to properly identify, measure, monitor, and control risks. Because market conditions and company structures vary, there is no single risk management system that works best for all banks. But we do expect each bank or FBO to have a system that is commensurate with the risks it assumes. Based on our risk assessment, a supervisory strategy is developed.

We also evaluate the direction of risk, which adds the forward-looking component to our supervision. The supervisory strategy for a bank is based not only on the bank's current level of risk and the quality of its risk management, but also on the direction of risk. This allows us to focus our attention on the highest areas of risk and to pay less attention to those areas with minimal or acceptable levels of risk.

OCC's supervision of foreign banks' U.S. operations has followed a similar pattern of evolution as our domestic banks. With the implementation of interstate banking, which was finalized in June 1997, we modified our supervision to focus on how a bank manages risk and the quality of its risk management systems from a firm-wide or global perspective.

Similarly, as I mentioned earlier, under the FBO program we look at federal branch operations in the context of the entire company, not as stand-alone units. The SBR thinking that has animated recent trends in the supervision of national banks within the U.S. is imbedded in the approach adopted by the FBO program. Consequently, the home

country and parent reviews which we conduct regularly, are integral and critical elements in our assessment of the organization's risk management systems. To make this approach more operational, we have begun clustering responsibility for federal branches from a single country under a portfolio manager and sending this OCC examiner along on visits to the bank's head office to obtain, first-hand, a better understanding of the policies, practices, and risk systems of the bank. This examiner's perspective allows us to tailor our supervision into individual problems or conditions of each FBO. This approach also influences our use of enforcement actions, where these might be required. Because the FBO program puts us in a better position to differentiate among banks from the same country, we are now better able to adapt enforcement actions to identified weaknesses of individual FBOs.

Let me give you a concrete illustration of how this has worked. It is no secret that, over the last year and a half, banks in several Asian countries have had severe liquidity problems. Naturally, we have followed developments in the branches of these banks very carefully. Because of the home country and parent bank background developed through the FBO program, we have been able to take deliberate and balanced responses to the situation of each of the federal branches for which we have primary supervisory responsibility. Where supervisory action has been required, we have been able to customize our requirements based on the individual circumstances of each FBO.

In line with SBR, some of the risks in our federal branches that we are currently giving special attention to are: credit underwriting, liquidity, operational controls, Y2K readiness, and Bank Secrecy Act/money laundering. We evaluate the management of these risks within the context of the parent's risk management systems and local risk management practices. As I mentioned, that is why the home country and parent reviews play such an integral role in our supervision of FBOs.

If the FBO program and supervision by risk have been central forces shaping the OCC approach to the supervision of federal branches, implementation of interstate banking within the United States is also having a distinct influence.

With full implementation of the interstate banking law in the U.S. in June 1997, domestic banks have enjoyed an opportunity to fashion a national franchise. During the past year, there has been a rapid consolidation within the banking industry, especially among some of the country's largest banks, as companies have made acquisitions to develop regional or national franchises. As the number of banks has shrunk, there has been an increased concentration of assets in larger banks. Many of the interstate mergers have involved national banks because of



the advantages the national charter has for banks operating in a number of states. Overall, however, there has been little net change in the share of bank assets in state-chartered versus the share in nationally chartered banks. The OCC just has a smaller number of larger banks to supervise.

In response to these and other changes occurring in the industry, in 1997 the OCC modified its supervisory structure by creating a Large Bank unit, which replaced what had previously been our Multinational Bank unit. This Large Bank unit was charged with responsibility for supervising all large national banks throughout the country regardless of the geographic location of the bank's head office. The common characteristic of these banks is that they are large, complex companies operating interstate. This organizational change has provided the OCC the means to supervise all large banks on a consistent, national basis.

Consistent with the U.S. policy to provide national treatment and equality of competitive opportunity to foreign banks operating in the United States, through the federal license FBOs enjoy interstate opportunities similar to those of national banks. The federal license option offers foreign banks with multistate offices the opportunity to establish branches in multiple states and receive nationwide supervision by one regulator, the OCC, analogous to the ability of U.S. banks to conduct interstate banking under a single national charter with the OCC as its regulator.

Drawing the foregoing strands together, I would like to describe for you the way the OCC has evolved its structure in a way that provides effective nationwide supervision for foreign banks with multistate OCC-licensed branches and agencies. We believe the approach we have developed is both consistent with national treatment for foreign banks and is responsive to the requests of foreign banks for a more efficient supervisory regime.

A major organizational step we have taken to implement nationwide supervision was to consolidate the supervision of all federal foreign bank activities into one office. Beginning in 1997, the supervision of all federal foreign branches and agencies is now handled by our New York office under assistant deputy comptrollers Mike Carnovali and Bill Reinhardt. This nationwide, central point of contact for foreign bankers on supervisory matters has helped to ensure consistency in our examination of FBOs, of our supervisory decisions, and of our regulatory response to questions and issues, regardless of the state in which the branch or agency is located. OCC-licensed banks in any case have the advantage of a single legal and regulatory regime applicable across the entire United States. This organizational change strengthens the consistency with which this single regulatory regime is administered across the country.

Assistant deputy comptroller Carnovali has responsibility for FBOs from Europe and Asia, while assistant deputy comptroller Reinhardt has responsibility for FBOs from the Western Hemisphere and the Middle East.

Under our new organization, the OCC assigns responsibility for each FBO to one examiner. This examiner becomes the portfolio manager for this institution and is responsible for all supervisory matters regarding this institution. As I mentioned earlier, this examiner also participates in our visits to the bank's head office to obtain a better understanding of the policies, practices and risk systems of the consolidated bank. The portfolio manager concept adds significant strength to our supervisory process and enables us to better understand and supervise federal branches and agencies. By having one person responsible for the branch, new examiners do not have to be constantly educated about branch operations, head office policies and support, marketplace, etc. This concept also provides branch management with a knowledgeable focal point to discuss their issues and requests at any time.

OCC examiners who participate in examinations of foreign branches and agencies are members of a dedicated team who primarily focus their examination efforts on these types of entities. As a result of this process, our examiners develop special expertise and knowledge about federal branches and agencies and, we believe, are thus able to conduct better quality and more effective examinations.

As I mentioned earlier, a comprehensive supervisory strategy is a basic feature of the FBO program. Where the OCC is the licensing agency for all the banking elements of an FBO, we are structured in a way that allows us to readily develop that strategy for the entire FBO. The strategy encompasses a continuous supervisory process that includes quarterly off-site reviews, on-site examinations, and periodic meetings with management and the board of directors. Our ongoing supervision of foreign branches and agencies reduces the size of the examining crew visiting your branch and the amount of time they must spend there. This, in turn, results in reduced burden on you and your staff.

This supervisory structure offers obvious benefits to FBOs, particularly those with multistate operations. In addition to the benefits just enumerated, the OCC structure allows for continuity in the examination process from year-to-year and for examination consistency from office to office.

The OCC has a separate international unit within its law department that serves as the agency's focal point for all international legal issues. This unit provides legal support

on international issues to my staff, the New York assistant deputy comptrollers responsible for supervision of FBOs, and senior OCC management. This unit also is available to provide assistance to FBOs with questions about national bank powers and permissible activities.

The OCC has been aggressive in seeking expanded powers for banks and federal branches. In recent years, decisions by the Comptroller, ratified by the courts, have substantially expanded the scope for national banks to handle insurance activities. In 1997, the OCC widened the scope for national banks to make use of operating subs to engage in activities that are permissible in banks or are activities that are closely related to the business of banking. We are currently exploring the possibility of expanding these powers to include federal branches.

For nationwide supervision to be fully meaningful, the OCC must have the authority to offer a federal license in the states where foreign banks would like to do business. Before the completion of interstate banking there were some gaps in our coverage. That situation is changing.

The OCC was recently asked to opine on whether a foreign bank (in this case, a bank that has New York as its home state) could have a federally licensed interstate office in Florida. After carefully reviewing the I.A. and Florida law, the OCC staff has preliminarily concluded that the OCC has the authority to permit the bank to operate a limited federal branch in Florida, in addition to a federal agency.

These limited branches would have the ability to accept Edge Act-type deposits. Such deposits are similar to the types of deposits that Florida-licensed foreign bank agencies currently are allowed to accept.

We are currently preparing an opinion letter addressing this issue, and I expect it will be issued in the near future. Based on this, we believe the OCC is now in position to offer a branch license option in Florida that is fully competitive with the state options now available. Filling in this gap will significantly enhance the substance of nationwide supervision of FBOs.

I should also mention that Texas has recently made changes in its approach to branching by foreign banks. However, it is much too soon to be able to offer any observations on how this will affect the options for a federal branch license in Texas or a state license, for that matter.

Recently, another foreign bank whose home state is New York asked the OCC to approve a loan production office (LPO) to be operated by the bank's federal branch in New York. The OCC lawyers concluded that the LPO is permissible because a national bank may establish an LPO and,

under the IBA, a federal branch generally has the same rights and duties as a national bank. As a result, the federal branch has the added flexibility to operate through an LPO and, in effect, to perform through the LPO many of the same functions as foreign banks do through their representative offices.

The New York State Banking Department (NYSBD) that usually licenses representative offices concluded that the bank did not need to apply for a state representative office license, as long as the bank provided the NYSBD assurances that the LPO would not be left operating on an unlicensed, standalone basis if the bank should decide to close the branch office.

The FRB, however, did require the bank to file an application and receive approval because it viewed the LPO to be a "representative office."

To round out the discussion, I should, perhaps, briefly mention operating subs. As a matter of policy, the OCC believes that a federal branch should be able to establish an operating subsidiary because, under the IBA, a federal branch should be able to do what national banks can do. However, to date we have not had an occasion to issue an opinion letter on this point, so any application for such an operating subsidiary would present a legal precedent and would not be able to take advantage of the expedited process that many domestic subsidiary applications now follow.

Given the precedential nature of such an application, it would be advisable that the proposed activities of the subsidiary would be "plain vanilla," that is, traditional and uncontroversial subsidiary activities generally of a banking or financial nature. I would like to mention a couple of other OCC innovations which, though not addressed specifically to foreign banks, are available to all banks supervised by the OCC.

In June 1993, the OCC established a formal appeals process to implement an additional approach national banks and federal branches could use to appeal OCC decisions and actions. The OCC also established an examination survey in July 1995 for companies to respond to an independent source to help measure the effectiveness of our examinations. Both of these processes were established to provide our banks and branches with a nonretaliatory, objective, and independent system to address examination concerns apart from the supervisory process.

The OCC has maintained an open line of communication with the general managers of our federal branches. We have discussed new and emerging topics in forums such as outreach meetings and roundtables. The North-eastern District deputy comptroller and I have also met

with general managers and country representatives to share ideas.

The OCC has been a leader on a number of issues including derivatives and mortgage banking. We have developed experts in a number of fields, including capital markets, compliance, credit, mortgage banking, and fiduciary matters. This expertise is available for guidance on emerging issues and products and ensures quality supervision.

In an effort to provide a more equitable fee assessment process, the OCC has adopted two significant measures. First, the OCC designed an assessment schedule that more accurately reflects the cost of supervision. The underlying premise of this concept is that institutions that require more supervisory attention should bear the greater burden of supervisory assessments. Consequently, all institutions su-

pervised by the OCC that receive a ROCA rating of 3 or worse receive a 25 percent assessment surcharge.

Secondly, the OCC has reduced the assessment charge for federal branches and agencies that have multiple U.S. offices. For federally licensed branches or agencies with multiple offices, the largest branch pays the full assessment while all other branches receive a 12 percent assessment reduction.

The OCC is continually exploring new avenues to enhance and improve our supervisory process and to keep the federal branch or agency license abreast of market and regulatory developments. Over the years, the OCC has demonstrated its commitment to this effort and will continue to work with Congress, banking supervisors, and the industry to continually strive for a better U.S. banking environment for federal branches and agencies.

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# Interpretations— October 1 to December 31, 1998

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	<i>Page</i>
<b>Interpretive Letters</b> .....	137
	<i>Letter No.</i>
	<i>Page</i>
 <b>Laws</b>	
12 USC 24(7) .....	840, 140
	842, 143
	845, 153
	848 161
12 USC 36(j) .....	838, 137
	839, 138
	843, 147
	846 159
12 USC 92 .....	844 150
12 USC 2901 .....	849 163
 <b>Regulations</b>	
12 CFR 7.1000(d) .....	847 160
12 CFR 9.18 .....	841 140
 <b>Subjects</b>	
Whether certain bank equipment at a shopping mall requires filing a branch application .....	838 137
Whether a school banking program would constitute a branch .....	839 138
Whether a bank may buy and sell certain commemorative coins .....	840 140
Permissibility of proposed method for distributing collective investment funds .....	841 140
Whether a bank may acquire and hold a noncontrolling 50 percent interest in a limited liability company structured as a joint venture .....	842 143
Whether a bank may provide certain services at its loan/deposit production office without that office being considered a branch .....	843 147
Whether a bank may solicit and sell insurance using the same means and facilities available to other insurance agencies .....	844 150
Whether a bank may establish an operating subsidiary to serve as a captive insurance company ....	845 153
Whether nonbranch offices of a bank and its subsidiary mortgage company are branches .....	846 159
Whether a bank may purchase real estate and lease it to a school district .....	847 160
Whether certain provisions of a retirement plan for executive officers are permissible .....	848 161
Whether funds transfer agent agreements are considered to be a community development service under the Community Reinvestment Act .....	849 163



# Interpretive Letters

**838— April 15, 1998**

## 12 USC 36(j)

500 North Akard  
1600 Lincoln Plaza  
Dallas, Texas 75201-3394  
(214) 720-0656

Dear [ ]:

This replies to your letter of February 12, 1998 addressed to Licensing Specialist Linda Pulley, which has been referred to the legal division for response. You have requested a legal opinion as to whether your bank's placement of certain equipment at a local shopping mall would require the filing of a branch application with the OCC.

The facts, as I understand them from your letter and subsequent telephone conversations with Senior Attorney Stephen B. Brown, are as follows. [ ] has its main office in [City], and has no branches. [ ] is considering placing three items of equipment in a local shopping mall. The items are an automated financial receiving station (AFRS), an automated change maker (ACH) and an automated teller machine (ATM). These are free-standing, automated machines which are not attended by bank personnel. The machines would perform the following functions. The ACH would give change for currency fed into the machine by users. The ATM would allow a bank customer to withdraw funds from an account at the bank by using an ATM or debit card, but would not accept deposits. The AFRS would perform a deposit-taking function. A customer would physically deposit cash or checks into the AFRS for deposit to the customer's account at [ ], using a coded card to access the AFRS. The AFRS would electronically verify the customer's access code, and electronically record on a disc that a deposit had been made using that code. The AFRS would provide the customer with a receipt showing that a deposit had been made. Periodically, the deposits and the disc would be picked up and delivered to the bank. Bank personnel would then verify the deposit amounts, using the information on the disc to identify the customers by their access codes. The deposit amounts would then be credited to the customers' accounts. It is my opinion that these machines are not branches, and thus are not subject to the branching restrictions imposed on national banks.

National bank branching is governed by the McFadden Act ("act"), 12 USC 36. The act provides that a national bank may, with the approval of the Comptroller of the Currency, establish and operate new branches at such locations as are authorized to state banks under the law of the state where the national bank is located. See 12 USC 36(c). A "branch" is defined as including "any branch bank, branch office, branch agency, additional office, or any branch place of business located in any State or Territory of the United States or in the District of Columbia at which deposits are received, or checks paid, or money lent."<sup>1</sup> See 12 USC 36(j). This definition was amended by section 2204 of the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) (effective September 30, 1996), which added the proviso that: "[t]he term 'branch,' as used in this section, does not include an automated teller machine or a remote service unit." See PL 104-208.

Prior to EGRPRA, a national bank required OCC approval under 12 USC 36 to own and operate an ATM or a customer bank communication terminal (CBCT). See *Independent Bankers Ass'n. of America v. Smith*, 534 F.2d 921 (D.C. Cir.) (finding that CBCTs are branches under section 36), *cert. denied*, 429 US 862 (1976). The revision to section 36(j) now clearly provides that ATMs and RSUs are no longer subject to the branching restrictions and related approval requirements imposed by or through section 36. Accordingly, the OCC has determined that national banks have authority to establish ATMs (and RSUs) without geographic restriction in a given state. See Comptroller Staff Interpretive Letter No. 772, *reprinted in Interpretations and Actions*, Vol. 10, No. 3 (March 1997) (Interpretive Letter No. 772). Therefore, in the present case, [ ] may establish the ATM without regard to location or application requirements.<sup>2</sup> The ACH may also be established at any location, since it is not a branch because no core banking functions are performed at the site.

As previously noted, the AFRS will receive deposits, which is a core banking function. However, the AFRS is an automated, unstaffed banking facility which will be owned and operated by [ ], and which will record the deposit information electronically.<sup>3</sup> It is therefore an ATM for purposes of the interagency definitions developed to implement the Community Reinvestment Act (CRA). See 12

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<sup>1</sup> These are known as "core banking functions," and the application of 12 USC 36 is dependent upon one of the functions being performed at a given location.

<sup>2</sup> Under [State] law, a bank may establish an ATM at any location. See [ ] Ann. [ ] and [ ]. Accordingly, the establishment of the ATM does not raise any state law preemption issues.

<sup>3</sup> The AFRS thus differs from a deposit drop box, which is considered a branch for purposes of OCC licensing requirements. See 12 CFR 5.30(d)(1)(i).

CFR 25.12(d) (OCC definition), 12 CFR 228.12(d) (Federal Reserve Board definition), and 12 CFR 345.12(d) (FDIC definition).<sup>4</sup> These definitions describe automated, unstaffed facilities that engage in one or more of the core banking functions. The OCC has determined that facilities that operate in this manner are ATMs or RSUs within the meaning of section 36(j) and are not subject to branching limitations. See Interpretive Letter No. 772. It is my opinion that under this standard, the AFRS is an ATM or RSU under the revised section 36(j). Accordingly, [ ] may establish the AFRS at the proposed location without filing an application with the OCC.<sup>5</sup> See *id.*

A copy of Interpretive Letter No. 772 is enclosed for your information. Should you have any questions concerning this matter, please contact me or Mr. Brown at (214) 720-7012.

Randall M. Ryskamp  
District Counsel

Enclosure [Enclosure omitted. OCC Interpretive Letter No. 772 may be found in the *Quarterly Journal*, Vol. 16, No. 2 or on the World Wide Web at <http://www.occ.treas.gov/interp/mar97/int772.pdf>.]

**839— August 3, 1998**

**12 USC 36(j)**

Office of the District Counsel  
Northeastern District  
1114 Avenue of the Americas, Suite 3900  
New York, New York 10036-7780  
Voice (212) 790-4010  
Fax (212) 790-4058

Dear [ ]:

This responds to your letter of May 22, 1998, inquiring whether a school banking program being considered by [ ] (FNB), [City, State], would constitute a branch. As explained below, I conclude that, as structured, the program would not result in the establishment of a branch by FNB.

FNB has had a vocational relationship with [ ] High School (HS), [City, State], for approximately 15 years, providing numerous job opportunities to students. FNB and [ ] HS would like to extend this relationship through use of a school banking facility ("facility") on school premises staffed by students interested in banking. FNB would donate a small amount of money to defray the start up cost to the school. FNB would also train the tellers and conduct audits to ensure safety and soundness. The school plans to keep the facility open for one hour each school week to accept deposits (withdrawals are being considered for the future) from students. The program may eventually be extended to faculty as well, depending on demand and the success of the program. The School Business Manager would bring the deposits to FNB after the facility closes each day. The [ ] School District would assume responsibility for the funds until they are delivered to an FNB office or deposited in its night depository. [ ] HS would not have a contract with FNB and would have no obligation to maintain this relationship for any period of time.

The proposal is in many respects similar to a non-branch third party messenger service that facilitates the receipt of deposits between a national bank and depositors. The OCC has adopted an interpretive rule that provides guidance on when a messenger service will or will not be a branch of a national bank.<sup>1</sup> That rule states that messenger services established by third parties are not bank branches.<sup>2</sup> While the rule sets out a test for determining when a messenger service is clearly established by a third party, and is not a branch, that test is a safe harbor.<sup>3</sup> Alternatively,

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<sup>4</sup> The OCC and the Federal Reserve define an ATM to mean an automated, unstaffed banking facility owned or operated by, or operated exclusively for, the bank at which deposits are received, cash dispersed, or money lent. The FDIC uses identical language to define a remote service facility (RSF), which includes an ATM.

<sup>5</sup> [State] law permits a banks to establish a "consumer banking electronic facility" (CBEF) at any location. A CBEF means any electronic device owned or operated by a bank to which a person may initiate an electronic fund transfer, and includes ATMs and other similar electronic devices. See [ ] Ann. [ ] and [ ]. It is understood that the State of [State] does not require an application to establish a CBEF. Therefore, the establishment of the AFRS does not raise a state law preemption issue.

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<sup>1</sup> 12 CFR 7.1012.

<sup>2</sup> *Id.* at 7.1012(c)(2).

<sup>3</sup> *Id.*; see also 60 Fed. Reg. 11924, 11926 (March 3, 1995).

what constitutes a non-branch third party messenger service is to be determined based on a review of the facts and circumstances concerning a given relationship.<sup>4</sup> Thus, in originally adopting this approach, the OCC explained:

If a messenger service complies with all of the requirements set forth in (c)(2), the OCC will not consider the facility to be a branch. As stated, this test is not meant to be exclusive. Undoubtedly, there could be other factors that would cause a facility not to be considered a branch because it was not "established" by the national bank. Likewise, there may be facts and circumstances under which the failure to satisfy certain of the listed factors would not cause the facility to be considered as a branch of the bank.<sup>5</sup>

The factors set forth in the safe harbor test are:

- (i) a party other than the national bank owns the service and employs its personnel; and
- (ii) the messenger service:
  - (A) makes its services available to the public including other depository institutions;
  - (B) retains discretion on who it will serve and where;
  - (C) maintains ultimate responsibility for scheduling, movement, and routing;
  - (D) does not operate under the name of the bank or represent that the bank is providing the service;
  - (E) assumes responsibility for items while in transit; and
  - (F) acts as agent for the customer while the items are in transit thus assuring that items intended for deposit will not be deemed to be deposited until delivered to the bank and that items representing withdrawals are deemed to be paid when given to the messenger service.<sup>6</sup>

Under the facts as presented, the program clearly comports with factors (i) and (ii)(B), (ii)(C), (ii)(D), and (ii)(E) as well as the agency, debit, and credit provisions in (ii)(F). FNB neither owns the service nor employs its "personnel." Rather, students serve as tellers after being trained by bank personnel and are supervised by school faculty members. Additionally, the school business manager will

transport the money from the school to the bank and deposit it or place it in the bank's night depository. Moreover, since the facility is operated only during school hours and serves only persons associated with the school, it appears that the school, rather than the FNB, retains discretion on who it will serve and where, and maintains ultimate responsibility for its operations. Furthermore, given that only persons associated with the school will provide services to depositors, it is readily apparent that the school, not the bank, is providing the service. Finally, the deposit slip will indicate that the funds will not be credited to the individual accounts until the funds are received at bank premises and the amounts are verified. As stated, the school district will assume responsibility for any losses of funds prior to their delivery to the bank.

With respect to (ii)(A), even though the program would facilitate the receipt of deposits for only one bank, the school could terminate the program at anytime and enter into an arrangement with any other bank. Clearly under this arrangement, the school is not wedded to providing services on behalf of any particular bank. This portion of the arrangement is similar to provisions in an arrangement between a state university and a national bank by which the university facilitated certain banking transactions between its students and the national bank.<sup>7</sup> The OCC found these provisions persuasive in concluding that the arrangement satisfied the requirements currently found in section 7.1012(c)(2)(ii)(A). Accordingly, I conclude that the requirements of section 7.1012 (c)(2)(ii)(A) are satisfied in the instant case.

In addition to being conducted in accordance with the messenger service requirements, the arrangement must be conducted in accordance with safe and sound banking practices. The OCC has previously listed safety and soundness concerns that banks entering into arrangements with third parties should consider. Banks should make sure that costs are properly allocated; customer problems are resolved through the same manner and same process as the bank generally follows; and that the parties clarify their legal relationships. These various relationships and responsibilities must be clearly disclosed to the customer. In addition, parties to such arrangements should establish appropriate procedures for segregating and properly recording items and, when applicable, must establish appropriate procedures for identifying customers seeking withdrawals, certifying withdrawal transactions and establishing and enforcing appropriate withdrawal limitations. In addition, the parties should develop policies with respect to record keeping, reporting and disclosures to customers to assure that all legal and prudential requirements, including any laws regarding financial privacy, truth in savings and funds availability are satisfied.

<sup>4</sup> Id.

<sup>5</sup> 58 Fed. Reg. 4070, 4072 (January 13, 1993).

<sup>6</sup> 12 CFR 7.1012(c)(2).

<sup>7</sup> Letter from William P. Bowden Jr., Chief Counsel (October 5, 1993).



Finally, banks entering such arrangements should take steps to assure that account holders know that the service facility is an entity separate from the bank of deposit and that they will receive notice of any change in service.

In conclusion, if the program is conducted as discussed above, the program would not constitute the establishment of a branch at the school.

I trust this is responsive to your inquiry. Please call me at (212) 790-4010 if you have any questions regarding this matter.

Denver G. Edwards  
Attorney

## 840– September 21, 1998

### 12 USC 24(7)

Dear [ ]:

This is in response to your inquiry whether national banks may buy and sell commemorative coins issued by an entity other than the United States Mint.

Twelve USC 24(Seventh) expressly authorizes national banks to buy and sell coins. In pertinent part the statute states that a national bank may “carry on the business of banking” by, for example, “buying and selling exchange, coin, and bullion.” The statute does not qualify or limit the types of coins that a national bank may purchase or sell. Therefore, it is our conclusion as a legal matter that national banks may buy and sell commemorative coins regardless of whether they have been issued by the United States Mint (U.S. Mint) or by some other entity.

Banking Circular No. 58 (Rev.) (1981) (“circular”) sets forth general guidelines that apply to national banks’ coin and bullion activities. In 1983, the OCC published a supplement to the Circular (“supplement”) which addresses one specific type of national banks’ coin activity— the purchase and sale of commemorative coins issued by the U.S. Mint. National banks should comply with the guidelines contained in both the Circular and the Supplement when purchasing and selling commemorative coins issued by an entity other than the U.S. Mint. To minimize the risk of this activity, it is especially important that the board of directors establish policies and procedures which set dollar limits on coin inventories consistent with safe and sound banking practices.<sup>1</sup>

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<sup>1</sup> Additionally, we take supervisory comfort that the program offered by the vendor you have selected, [ ], contains features that further minimize risk to the bank including no minimum purchase amounts and an exchange policy for unsold commemorative coins.

We trust this is responsive to your inquiry. If you have further questions, please contact Steven Key, an attorney on my staff, at (202) 874-5300.

William B. Glidden  
Assistant Director, Bank Activities and Structure Division

## 841– September 21, 1998

### 12 CFR 9.18

Re: [Bank]: Collective Investment Funds

Dear [ ]:

This responds to your letters on behalf of [ ](bank), requesting that the Office of the Comptroller of the Currency (OCC) confirm the permissibility of the bank’s proposed method of distribution for certain of its collective investment funds (CIFs) under 12 CFR 9.18(b)(5)(iv) (1998). Based on the representations in your letters and in subsequent phone conversations, and subject to the conditions set forth below, the bank may proceed with its proposal.

### I. Background

The bank currently maintains numerous CIFs operated pursuant to the requirements of 12 CFR 9.18(b). Among those CIFs is the [ ] (SIF), established pursuant to 12 CFR 9.18(a)(1).<sup>1</sup> Participant investors in the SIF are [ ] (DTs) for which the bank or an affiliate serve as trustee. DTs are long-term investment vehicles established for the purpose of funding the future [ ] of [ ]. Participants in the SIF are limited to DTs. You state that DT income generally is taxable, but that section [ ] of the Internal Revenue Code (IRC) provides advantageous tax treatment for certain qualified portions of the DTs.<sup>2</sup>

You represent that the SIF participants have common goals and objectives because each participating DT is established and maintained as a long-term investment vehicle for funding the future [ ] of [ ] or [ ]. Further, you state that given the need for long-term investment, SIF participants prefer to defer the payment of any kind of tax. Consequently, the bank manages the SIF taking into consideration the DTs’ need for: 1) long-term investment;

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<sup>1</sup> The SIF is designed to replicate the composition of the S&P 500 Index.

<sup>2</sup> [ ] USC [ ].

2) any special tax rate applicable only to DTs; 3) any investment restrictions applicable to DTs; 4) cost-effective economic management of assets; 5) minimization of taxes; and 6) diversification.

In addition to the SIF, you represent that the bank intends to establish and operate additional index CIFs in the future (collectively Future Index Funds (FIFs)) for DT investment. Those funds will also be established under 12 CFR 9.18(a)(1) and will operate in substantially the same manner as the SIF. Like the SIF, the FIFs will replicate the composition of a third party securities index. Similarly, any organization creating and maintaining an index replicated by the FIFs must be either: 1) engaged in the business of providing financial information, evaluation, advice or securities brokerage services for institutional clients; 2) a publisher of financial news or information; or 3) a public stock exchange or association of securities dealers. Moreover, the bank will use only those indices of organizations that are independent of the bank and its affiliates and those that are generally accepted, but not specifically tailored, for use by the bank or its affiliates, *e.g.*, the Russell 2000 Index.

To accommodate the long-term, low cost funding objectives of the SIF and FIFs, the bank wishes to amend or establish the relevant fund documents to mandate that withdrawals in amounts below a specified value must be in cash, while withdrawals in amounts at or above that specified value will occur in kind.<sup>3</sup> To insure that the bank's proposed method of distribution for the SIF and the intended FIFs is consistent with part 9's distribution requirements, the bank seeks OCC confirmation of the permissibility of the proposed distribution procedures or, a waiver to permit the bank's proposed method of distribution.

## II. The Proposal

The bank proposes that distributions to participants withdrawing from the SIF be divided into two components:

1) *Total withdrawals*- Withdrawals of a DT's total investment in the SIF must be made on an in kind basis unless the value of the investment is less than \$5,000,000 in which case the withdrawal must be made on a cash basis.

2) *Partial withdrawals*- Withdrawals of a portion of a DT's investment in the SIF must be made on an in kind basis and must be \$5,000,000 or more. If a DT's total investment in the SIF immediately prior to the withdrawal is less than \$5,000,000, withdrawals must be made in cash.

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<sup>3</sup> A ratable "in kind" distribution of the SIF's assets to a DT account would consist of a distribution that reflects the account's proportionate interest in all the SIFs assets, *i.e.*, securities that replicate the composition of the S&P 500 Stock Index.

The bank also proposes that 1) and 2) above apply to distributions to a DT account withdrawing from its FIFs, except the threshold dollar amount will vary depending on the index. The bank, in its fiduciary capacity, will determine the threshold amount for each FIF in a manner similar to that used for the SIF. For example, the bank will determine what threshold dollar amount is needed for a pro rata withdrawal of the stock held in a FIF tracking the Russell 2000 index.

If the bank's proposal is deemed permissible by the OCC, the bank will notify SIF participants of the impending changes to be made to the SIF's withdrawal provisions. Existing SIF participants would then be afforded the opportunity to withdraw from the SIF under the existing withdrawal and distribution provisions or to remain invested in the SIF and become subject to the new provisions. All new SIF participants would be informed of applicable withdrawal and distribution procedures prior to investing in the SIF. The FIFs would have the proposed withdrawal and distribution procedure in place from the inception of each FIF.

The bank believes that in kind distributions, if feasible, are often less costly to an index CIF and its participants. Conversely, in the case of relatively small distributions, the bank believes that the strict portfolio requirement of distributing ratably in kind for an index CIF makes cash withdrawals preferable from the CIF's perspective.

To illustrate, the tax consequences of in kind distributions are often more preferable for an index CIF and its participants than cash distributions. Regardless of whether an index CIF participant receives an in cash or in kind withdrawal, the withdrawing participant would recognize a gain or loss measured by the difference between the sum of the cash and fair market value of the property received and the participant's adjusted basis in the interest redeemed. In the case of a cash withdrawal, the index CIF and all of the participants would also recognize a gain or loss from the sale of assets. Conversely, neither the index CIF nor its participants would recognize a gain or loss based on an in kind distribution, although the redeeming participant would take a basis in the property received equal to its fair market value at the time of redemption. Accordingly, where practicable, it is often advantageous to an index CIF and its participants for the index CIF to pay redemptions through the distribution of assets (*i.e.*, in kind) rather than in cash because the sale of assets to make a cash distribution could result in a substantial taxable gain to the index CIF and all of its participants.

In kind distributions are also beneficial to SIF participants in the context of brokerage costs. Brokerage costs must be borne by participants withdrawing from the SIF.<sup>4</sup> In

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<sup>4</sup> The documents establishing the SIF require brokerage costs to be borne by withdrawing participants.

kind distributions defer brokerage costs to a later sales date. Consequently, participants withdrawing in kind benefit by being able to manage the time for payment of brokerage costs. It is true a participant withdrawing in kind bears the market exposure between the time of the withdrawal and the time of sale. Nevertheless, since DTs are long-term investors, they are likely to want continued exposure to the market. If the DTs do not want that exposure, they can sell the assets on or immediately after the withdrawal date.

Conversely, the general benefits of in kind distributions do not apply to relatively small distributions from an index CIF. Certain withdrawals from an index CIF may be too small to permit a pro rata share of each security in the index to be distributed on an in kind basis. For example, to distribute securities in the SIF ratably, approximately 500 stocks must be distributed. Since stocks held in the SIF are weighted according to certain factors, such as economic size in the marketplace, the number of shares distributed in kind for each company varies in proportion to the weighting. In the case of smaller distributions, the bank represents that attempting to make the distribution on an in kind basis would result in substantial disruption (and expense) to the SIF.

Consequently, the bank has determined that in kind withdrawals from the SIF are only practicable in amounts of \$5,000,000 or more. The bank believes an amount less than \$5,000,000 would not give the withdrawing participant enough shares of each stock to be representative of the index. Moreover, when in kind withdrawals are less than \$5,000,000, the cost to buy and sell stock in order to retain the SIF as an index fund could be significant when compared to the amount withdrawn. As a practical matter, the bank expects that many of the DTs participating in the SIF will have assets well in excess of \$5,000,000. In the case of a distribution in excess of \$5,000,000, where the portfolio of the SIF will not be seriously disrupted by a pro rata in kind distribution, given the objectives of the SIF described above, the bank represents that an in kind distribution would be in the best interests of the SIF and its participants.

The bank believes that the proposed distribution procedures provide an equitable balance beneficial to the operation and administration of SIFs, FIFs, and their participants. Further, the bank believes that the OCC's CIF rules expressly permit fund distributions to be structured in this manner.

### III. Discussion

OCC regulations generally govern the administration of CIFs by national bank trustees.<sup>5</sup> A national bank administering a CIF must make distributions to accounts withdrawing from the CIF in accordance with 12 CFR 9.18(b)(5)(iv) (1998). Specifically, a national bank must make those distributions 1) in cash, 2) ratably in kind, 3) by a combination of cash *and* ratably in kind, or 4) in any other manner consistent with applicable law in the state in which the bank maintains the fund.<sup>6</sup> National banks administering a CIF must admit or withdraw participant accounts on the basis of the valuation as of the valuation date set in the bank's written plan.<sup>7</sup> Depending on the type of fund or the assets held by a CIF, the value of a CIF's assets may be based on market value, fair value or cost.<sup>8</sup> A bank must disclose the terms and conditions governing the admission and withdrawal of participating accounts in the bank's written plan.<sup>9</sup>

The former part 9 distribution provisions provided that distributions to withdrawing accounts could be made 1) in cash, 2) ratably in kind, 3) or partly in cash *and* partly in kind; *Provided*, that all distributions as of any one valuation date were made on the same basis.<sup>10</sup> Those distribution provisions did not expressly state that national banks could make distributions in any manner other than that consistent with the federal standard. The OCC's recent revisions to Part 9 do expressly permit distributions under the federal standard *and* other distributions consistent with applicable state law. Here, the federal distribution standard is incorporated by reference as the applicable CIF distribution standard in the relevant state

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<sup>5</sup> 12 CFR 9.18 (1998). Part 9, including 12 CFR 9.18, was amended effective January 29, 1997. 61 *Fed. Reg.* 68,543 (1996). Part 9 was revised in response to the changes in national banks' fiduciary business over the past 35 years, including the nature and scope of the fiduciary services that banks offer and the structures and operational methods that banks use to deliver those services. The OCC's primary goal in revising part 9 was to accommodate those changes by removing unnecessary regulatory burden and facilitating the continued development of national banks' fiduciary business consistent with safe and sound banking practices and national banks' fiduciary obligations. *Id.*, at 68,544.

<sup>6</sup> 12 CFR 9.18(b)(5)(iv) (1998).

<sup>7</sup> 12 CFR 9.18(b)(4)(ii) and (5) (1998).

<sup>8</sup> 12 CFR 9.18(b)(4)(ii) (1998).

<sup>9</sup> National banks are required to establish and maintain each CIF in accordance with a written plan approved by a resolution of the bank's board of directors or by a committee authorized by the bank's board of directors. 12 CFR 9.18(b)(1) (1998).

<sup>10</sup> 12 CFR 9.18(b)(6) (1996). Options 1), 2), and 3) have been collectively referred to as a "federal standard." 60 *Fed. Reg.* 66,169-70 (1995).

law provisions.<sup>11</sup> 7 PS 404 (b)(i) (1997). Section 584 of the IRC exempts CIFs from federal income taxation in instances where a bank maintains those funds in conformity with the OCC's rules and regulations pertaining to the collective investment of trust funds by national banks. 26 USC 584; Rev. Rul. 79-43; Rev. Rul. 78-290; Rev. Rul. 69-133. You represent that the SIF at issue is a Section 404(b)(i) CIF, and that the FIFs would also be Section 404(b)(i) CIFs. Accordingly, you have concluded that the bank's SIF and FIF distributions must comply with the federal distribution standard in the OCC's CIF regulations.

The OCC's federal distribution standard allows the bank's proposed method of distribution. The federal standard does not permit one form of distribution to the exclusion of another. Rather, the federal distribution standard allows a national bank to make CIF distributions to an account in cash or ratably in kind or both, provided that the distribution is made on the basis of the valuation of CIF assets (either market value, fair value or cost, as applicable) as of the valuation date set forth in the bank's written plan.<sup>12</sup> Of course, the terms and conditions governing the withdrawal and distribution and the basis and method of valuation must be included in the bank's written plan.<sup>13</sup>

#### IV. Conclusion

Based on the foregoing facts and analysis, the representations in your letters and subsequent phone conversations, and subject to the conditions contained herein, we conclude that the bank's proposed method of distribution is consistent with the OCC's CIF distribution rules. Part 9's federal distribution standard expressly permits CIF distributions as of any one valuation date to be made in cash or ratably in kind. Accordingly, the bank may proceed with its proposed method of distribution.<sup>14</sup>

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<sup>11</sup> Applicable state law in this case is Pennsylvania law because the CIF at issue is maintained in Pennsylvania. Pennsylvania law provides that CIFs that meet the criteria of Title 7, Section 404(b)(i) of the Pennsylvania Statutes are subject to the OCC's CIF regulations. See 7 PS 404(b)(i) (1997) (Section 404(b)(i)); 10 Pa. Code 15.2 (1997). Section 404(b)(i) CIFs are those qualified for exemption from federal income taxation and maintained exclusively for fiduciary accounts eligible to participate in the CIFs. See 26 USC 584; 7 PS 404 (b)(i) (1997). Section 584 of the IRC exempts CIFs from federal income taxation in instances where a bank maintains those funds in conformity with the OCC's rules and regulations pertaining to the collective investment of trust funds by national banks. 26 USC 584; Rev. Rul. 79-43; Rev. Rul. 78-290; Rev. Rul. 69-133. You represent that the SIF at issue is a Section 404(b)(i) CIF, and that the FIFs would also be Section 404(b)(i) CIFs. Accordingly, you have concluded that the bank's SIF and FIF distributions must comply with the federal distribution standard in the OCC's CIF regulations.

<sup>12</sup> 12 CFR 9.18(b)(4) and (5) (1998).

<sup>13</sup> 12 CFR 9.18(b)(5)(iv) and (vi) (1998).

<sup>14</sup> We make this representation on the condition that the bank is in compliance with all other laws applicable to the SIF and FIFs.

I trust this letter responds to your inquiry. If you have any further questions, please contact Tena M. Alexander, a senior attorney with the Securities and Corporate Practices Division, at (202) 874- 5210.

Dean E. Miller  
Senior Advisor for Fiduciary Activities

## 842– September 28, 1998

### 12 USC 24(7)

Central District Office  
One Financial Place, Suite 2700  
440 South LaSalle Street  
Chicago, Illinois 60605

Dear [ ]:

This is in response to your letter to the Office of the Comptroller of the Currency (OCC), dated September 14, 1998, requesting confirmation that [ ] (bank) may lawfully acquire and hold a noncontrolling 50 percent interest in a limited liability company with a vendor which is currently engaged in the services enumerated hereafter. The limited liability company will be structured as a joint venture ("joint venture"), and it will engage in title insurance agency, loan closing and other activities in connection with consumer purpose and commercial loans made by the bank or the bank's lending affiliates.<sup>1</sup> For the reasons set forth below, it is our opinion that this transaction is legally permissible in the manner and as described herein.

### Proposal

The bank proposes to hold a 50 percent noncontrolling interest in a newly formed joint venture. The other 50 percent equity owner will be a vendor ("vendor") which currently offers most of the services which will be performed by the joint venture. The joint venture will be established under [State] law pursuant to a written agreement. The joint venture will be located in [City, State], a place of less

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<sup>1</sup> The letter states that the joint venture will initially provide services for the bank and its affiliates only. At some future time, the joint venture may market its services to unaffiliated lenders, including other banks, thrifts, credit unions, mortgage companies, and finance companies, much as the bank provides certain other services to unaffiliated institutions as correspondent.

than 5,000 (as measured by the 1990 census) in which the bank operates a branch.

The joint venture will be capitalized in cash equally by the bank and the vendor. It will hire its own employees who will not be dual employees of the bank or the vendor. The employees may or may not have a prior connection with the bank or vendor.

The bank proposes, through this investment, to engage in the same eleven activities, subject to the same conditions and limitations, as the OCC reviewed and approved on May 8, 1998 in an application submitted by Mellon Bank, N.A., Pittsburgh, Pennsylvania.<sup>2</sup> The only structural difference between the current proposal and the Mellon application lies in the fact that Mellon established an operating subsidiary to hold the 50 percent interest in the joint venture. All other aspects of the Mellon proposal and this proposal are identical, including management structure of the joint venture and services to be provided.

The services that will or may be in the future provided by the joint venture are: 1) appraisal management; 2) title insurance agent activities; 3) closing management; 4) flood insurance services; 5) credit reporting; 6) property inspections; 7) property preservation services; 8) loan document preparation; 9) providing census tract and related property information; 10) portfolio audits; and 11) real estate tax services.<sup>3</sup>

Initially, the joint venture intends to perform only title insurance agent activities and closing management services.

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<sup>2</sup> See OCC Conditional Approval No. 276 (May 8, 1998). With respect to the title insurance agency activity, for example, the joint venture will act only as a title insurance agent and in no event will it become obligated as an insurer. The bank states that the services offered will conform to the guidance set out by the OCC in Interpretive Letter No. 753, *reprinted in* [1996-1997 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81-107 (November 4, 1996).

<sup>3</sup> Some of the proposed services qualify as "settlement services" under the Real Estate Settlement Procedures Act (RESPA) and, as such, the referral of the services among the bank and its lending affiliates (lenders) and the joint venture are subject to the restrictions relating to "Affiliated Business Arrangements," as defined in the RESPA. The bank has represented that the lenders and the joint venture will comply with all applicable requirements of the RESPA with respect to the operation of the joint venture, including the affiliated business arrangement rules. Specifically, neither the lenders nor the joint venture will require a consumer to purchase settlement services from the joint venture as a condition of obtaining a loan from the lenders, unless expressly authorized by the RESPA. In addition, the bank has represented that consumers will be provided with an affiliated business arrangement notice in the circumstances required by the RESPA. The joint venture will observe and abide by the RESPA's rules regarding the payment of a thing of value within the affiliated business arrangement setting. The lenders and the joint venture will also comply with the anti-tying restrictions found in the Bank Holding Company Act, 12 USC 1972, to the extent applicable.

These services will be offered only in [State] for the foreseeable future. In most cases, these activities and services will be performed by employees of the joint venture. When the joint venture seeks outside employment assistance, it will subcontract the work to a qualified person or entity under an independent contractor relationship.

## Analysis

### Investment by a Bank in a Limited Liability Company

In a variety of circumstances the OCC has permitted national banks to own, either directly, or indirectly through an operating subsidiary, a noncontrolling interest in an enterprise. The enterprise might be a limited partnership, a corporation, or a limited liability company.<sup>4</sup> In recent interpretive letters, the OCC has concluded that national banks are legally permitted to make a noncontrolling investment in a limited liability company provided four criteria or standards are met.<sup>5</sup> These standards, which have been distilled from our previous decisions in the area of permissible noncontrolling investments for national banks and their subsidiaries, are: 1) the activities of the entity or enterprise in which the investment is made must be limited to activities that are part of, or incidental to, the business of banking; 2) the bank must be able to prevent the enterprise or entity from engaging in activities that do not meet the foregoing standard or be able to withdraw its investment; 3) the bank's loss exposure must be limited, as a legal and accounting matter, and the bank must not have open-ended liability for the obligations of the enterprise; and 4) the investment must be convenient or useful to the bank in carrying out its business and not a mere passive investment unrelated to that bank's banking business.

Based upon the facts presented, the bank's proposal satisfies these four standards.<sup>6</sup>

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<sup>4</sup> See also 12 CFR 5.36(b). National banks are permitted to make various types of equity investments pursuant to 12 USC 24(Seventh) and other statutes.

<sup>5</sup> See Interpretive Letter No. 692, *reprinted in* [1995-1996 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81,007 (November 1, 1995), and No. 694, *reprinted in* [1995-1996 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81,009 (December 13, 1995).<sup>1</sup> See also Letter of Steven J. Weiss, Deputy Comptroller, Bank Organization and Structure (December 27, 1995 unpublished) ("Weiss Letter"). In other recent letters, the OCC has permitted national banks to make a noncontrolling investment in an enterprise other than an LLC, provided the investment satisfies these four standards. See, e.g., Interpretive Letter No. 697, *reprinted in* [1995-1996 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81,012 (November 15, 1995); Interpretive Letter No. 705, *reprinted in* [1995-1996 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81,020 (October 25, 1995); Weiss Letter, *supra*.

<sup>6</sup> See OCC Conditional Approval No. 276 (May 8, 1998) and OCC Conditional Approval No. 243 (May 9, 1997).

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

Our precedents on noncontrolling ownership have recognized that the enterprise in which the bank holds an interest must confine its activities to those that are part of, or incidental to, the conduct of the banking business.<sup>7</sup>

As recited in the Proposal section above, the bank is proposing through this joint venture investment to engage in the same eleven (11) activities that the OCC approved Mellon Bank, N.A., Pittsburgh, Pennsylvania on May 8, 1998.<sup>8</sup> Approval was granted to Mellon, subject to the same conditions set out in the Conclusion section below, after it was determined that these activities are part of or incidental to the business of banking.

Accordingly, the first standard is met.

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.*

The activities of the enterprise in which a national bank may invest must be part of, or incidental to, the business of banking not only at the time the bank first acquires its ownership, but for as long as the bank has an ownership interest. This standard may be met if the bank is able to exercise a veto power over the activities of the enterprise, or is able to dispose of its interest.<sup>9</sup> This ensures that the bank will not become involved in impermissible activities.

Pursuant to the Joint Venture Agreement, the joint venture is prohibited from engaging in activities which would be impermissible for the bank. Also, the bank, through its representation on the management committee of the joint venture, will have the authority to veto activities or decisions by the joint venture that are inconsistent with activities that are part of, or incidental to, the business of banking, as determined by the OCC. This provision will en-

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<sup>7</sup> See, e.g., Interpretive Letter No. 380, *reprinted in* [1988-1989 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,604 n. 8 (December 29, 1986) (since a national bank can provide options clearing services to customers it can purchase stock in a corporation providing options clearing services); Letter from Robert B. Serino, Deputy Chief Counsel (November 9, 1992) (since the operation of an ATM network is "a fundamental part of the basic business of banking," an equity investment in a corporation operating such a network is permissible).

<sup>8</sup> See *supra* n. 2.

<sup>9</sup> See, e.g., Interpretive Letter No. 711, *reprinted in* [1995-1996 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81-026 (February 3, 1996); Interpretive Letter No. 625, *reprinted in* [1993-1994 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,507 (July 1, 1993).

able the bank on an ongoing basis to prevent the joint venture from engaging in new activities which may be impermissible. Furthermore, the Joint Venture Agreement authorizes the bank to terminate the Agreement and dispose of its interest in the joint venture if the company engages in any activities that are not part of, or incidental to, the business of banking.

Therefore, the second standard is satisfied.

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

*a. Loss exposure from a legal standpoint*

A primary concern of the OCC is that national banks 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. As a legal matter, investors in a [ ] limited liability company will 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 limited liability company.<sup>10</sup> The bank asserts that the joint venture will be adequately capitalized by the bank and the vendor. The bank and the joint venture will adhere at all times to corporate and other applicable formalities so that the bank will maintain its corporate existence separate from the joint venture. The Joint Venture Agreement will not contain any clauses making the bank liable for any obligations of the joint venture, nor will the bank guarantee or otherwise assume any liabilities of the joint venture. Thus, the bank's loss exposure for the liabilities of the joint venture will be limited solely to its capital contribution.

*b. Loss exposure from an accounting standpoint*

In assessing a bank's loss exposure as an accounting matter, the OCC has previously noted that the appropriate accounting treatment for a bank's 20-50 percent ownership share of investment in a limited liability company is to report it on an unconsolidated basis. Under the equity method of accounting, unless the bank has extended a loan to the entity, guaranteed any of its liabilities or has other financial obligations to the entity, losses are generally limited to the amount of the investment shown on the investor's books.<sup>11</sup> As noted above, the bank and the joint venture will adhere to all corporate formalities and the bank

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<sup>10</sup> See [State] Comp. Laws Ann. [ ].

<sup>11</sup> See generally, Accounting Principles Board, Op. 18-19 (1971) (equity method of accounting for investments in common stock). Interpretive Letter No. 692, *supra*.

will neither guarantee nor assume any liabilities of the joint venture. Consequently, the corporate veil so derived, and the use of the equity method of accounting, will protect the bank from potentially open-ended exposure to the liabilities of the joint venture.

Therefore, for both legal and accounting purposes, the bank's potential loss exposure relative to the joint venture should be limited to the amount of its investment in those entities. Because the bank will not have open-ended liability for the liabilities of the joint venture and its potential exposure will be quantifiable and controllable, the third standard is satisfied.

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

A national bank's investment in an enterprise or entity must also satisfy the requirement that the investment have a beneficial connection to the bank's business, *i.e.*, be convenient or useful to the investing bank's business activities, and not constitute a mere passive investment unrelated to that bank's banking business. Twelve USC 24(Seventh) gives national banks incidental powers that are "necessary" to carry on the business of banking. "Necessary" has been judicially construed to mean "convenient or useful."<sup>12</sup> Our precedents on bank noncontrolling investments have indicated that the investment must be convenient or useful to the bank in conducting *that bank's* business. The investment must benefit or facilitate that business and cannot be a mere passive or speculative investment.<sup>13</sup>

The services in question are of the types routinely purchased or performed by the bank and its lending affiliates when engaged in the business of making mortgage loans and, as proposed to be conducted by the joint venture, will provide a useful and convenient source of these essential services that are ancillary to extending credit secured by real estate. Conducting the services by means of the joint venture will enhance the ability of the bank and its lending affiliates to offer their mortgage loans more efficiently and capably to the public from a one-stop source while generating additional revenues for themselves. For

these reasons, the investment is convenient and useful to the bank in carrying out its lending business and is not a mere passive investment.

Thus, the fourth standard is satisfied.

A final condition relating to this type of proposal is that the joint venture will be subject to OCC examination. The Joint Venture Agreement provides for such oversight and, thus, this condition is met.

## Conclusion

Based upon the information and representations you have provided, and for the reasons discussed above, it is our opinion that the bank is legally permitted to acquire and hold a noncontrolling minority interest in the joint venture in the manner and as described herein, subject to the following conditions:

1. *the joint venture will engage only in activities that are part of, or incidental to, the business of banking;*
2. *the bank will have veto power over any activities and major decisions of the joint venture that are inconsistent with condition number one, or will withdraw from the joint venture in the event they engage in an activity that is inconsistent with condition number one;*
3. *the bank will account for its investment in the joint venture under the equity method of accounting; and*
4. *the joint venture will be subject to OCC examination.*

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

If you have any further questions, you may contact me or Joseph Pogar Jr., senior counsel, in the Central District at (312) 360- 8805.

Coreen S. Arnold  
District Counsel

<sup>12</sup> See *Arnold Tours, Inc. v. Camp*, 472 F.2d 427, 432 (1st Cir. 1972).

<sup>13</sup> See, *e.g.*, Interpretive Letter No. 697, *supra*; Interpretive Letter No. 543, *reprinted in* [1990- 1991 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,255 (February 13, 1991); Interpretive Letter No. 427, *reprinted in* [1988- 1989 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,651 (May 9, 1988); Interpretive Letter No. 421, *reprinted in* [1988- 1989 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,645 (March 14, 1988); Interpretive Letter No. 380, *supra*.

## 843— September 29, 1998

### 12 USC 36(j)

Southwestern District Office  
1600 Lincoln Plaza  
Dallas TX 75201- 3394  
Voice (214) 720- 7012  
Fax (214) 720- 7071

Dear [ ]:

This responds to your inquiry regarding whether [ ] (the bank), at its loan/deposit production office (LPO/DPO) in [City, State], may also provide certain services without the LPO/DPO being considered to be a branch of the bank.<sup>1</sup> The services are: 1) the installation of an automated teller machine (ATM) for the payment of withdrawals; 2) the sale of cashier's checks, money orders and traveler's checks; 3) provision of safe deposit boxes; and 4) the cashing of checks. In addition, you ask whether the LPO/DPO may share space with a facility operated by a courier service. For the reasons stated below, and under the facts presented, we conclude that the LPO/DPO may provide the proposed services and share space, as proposed, without being considered to be a branch of the bank.

### I. Background

Title 12 USC 36 permits national banks to establish branches under certain circumstances and defines branches as facilities at which "deposits are received, or checks [are] paid, or money [is] lent."<sup>2</sup> These activities are referred to as the "core banking functions."<sup>3</sup> The Comptroller of the Currency has determined that national bank offices performing loan production and deposit production functions are not branches provided that they do not engage in any of the core banking functions.<sup>4</sup> More-

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<sup>1</sup> This letter supersedes our letter of February 11, 1998, sent in response to your inquiry of January 26, 1998. The information contained in this letter is based on your inquiry and subsequent telephone conversations between you, others involved in this proposal, and OCC staff.

<sup>2</sup> 12 USC 36(j).

<sup>3</sup> This phraseology has its origin in *Securities Industry Association v. Clarke*, 479 U.S. 388, 404 (1987) (*Clarke*) (holding that the provision of discount brokerage services is not a core banking function and, thus, a bank office engaged in that activity is not a branch).

<sup>4</sup> 12 USC 7.1003- 7.1005 (providing that loan production offices are not branches as long as bank funds representing loan proceeds are not disbursed in-person to borrowers at the site); OCC Interpretive Letter No. 691, reprinted in [1995- 96 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81-006 (September 25, 1995) (deposit production offices are not branches where deposits are not accepted at the DPO but rather are mailed by the customer to the bank after filling out preliminary paperwork at the DPO).

over, Congress in 1996, amended the national banking laws pertaining to branching to provide that ATMs are not branches.<sup>5</sup> In addition, we note that the OCC permits national banks to share premises with other businesses,<sup>6</sup> and to utilize courier services to transport deposits between the customer and the bank.<sup>7</sup> Whether these courier services are considered to be bank branches depends on an evaluation of a variety of factors.<sup>8</sup>

For the reasons discussed below, we conclude that neither the activities listed above to be undertaken by the bank, nor the space sharing arrangement, cause the LPO/DPO to be considered to be a branch of the bank.

### II. Discussion

#### A. Activities to Be Performed by the Bank at the LPO/DPO

With the above statutory and regulatory framework in mind, the following discusses more specifically the four activities that the bank seeks to perform at the site and their impact on whether the site would be considered to be a branch of the bank.

First, you ask whether the presence of an ATM for the payment of withdrawals at the site would cause the site to be considered to be a branch of the bank. As discussed, it is clear that ATMs are no longer considered to be branches as a result of the 1996 changes to the definition of "branch" as used in section 36. Moreover, as we understand the facts, the ATM would be physically separate from the LPO/DPO and, while on the premises of the LPO/DPO, would be installed in the outside wall so that it will be accessible from the street only, rather than from inside the office. Further, withdrawals undertaken at the ATM will be accomplished by depositors, not by bank personnel; in fact, withdrawals can be undertaken even when the LPO/DPO is closed. In addition, the ATM will be available for use by customers of any bank which is a member of the networks to which the ATM is linked, not just to customers of the bank. Under these circumstances, it is clear that the presence of the ATM, in and of itself not a branch, does not convert the LPO/DPO, also otherwise not a branch, into a branch.

Second, you ask about the sale of cashier's checks, money orders and traveler's checks. As we understand the facts, these instruments would be available for sale to anyone

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<sup>5</sup> 12 USC 36(j).

<sup>6</sup> 12 CFR 7.3001.

<sup>7</sup> 12 CFR 7.1012.

<sup>8</sup> *Id.* at 7.1012(c).



who could pay for them using cash or a credit card. Consequently, none of these activities can be construed as a core banking function- no deposits are being received, no funds are being withdrawn and no money is being lent- that would cause the facility to be considered to be a branch.<sup>9</sup>

Third, you have asked about the provision of safe deposit boxes at the LPO/DPO. A safe deposit box service is an activity in which a customer contracts with a bank to rent a safe deposit box for the storage of valuables. The bank assumes responsibility to exercise reasonable care and to take precautions against loss of the box's contents. Any sums of money that may be placed in a safe deposit box are *not* credited to the customer's account at the bank. Thus, providing a safe deposit box service at the LPO/DPO is not "taking deposits" within the meaning of section 36(j) and does not cause the facility to be considered to be a branch.<sup>10</sup>

Fourth, you ask whether the LPO/DPO can cash checks drawn on other banks without being considered to be a branch of the bank. The term "checks paid," within the meaning of the definition of a "branch" refers to withdrawals from a deposit account at the bank.<sup>11</sup> Thus, cashing checks drawn on another bank is not an activity covered by the phrase "checks paid" in the branching definition and this activity, conducted at the LPO/DPO, would not cause that facility to be considered to be a branch of the bank.<sup>12</sup>

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<sup>9</sup> We note that one could argue that the use of a credit card issued by the bank to purchase a check or money order or similar instrument could be construed as the receipt of loan proceeds and, thus, the lending of money under sections 36(j) and 7.1003. However, this issue does not arise in this case, because your bank does not issue credit cards. Moreover, even if it did, because the bank would sell these instruments on similar terms and conditions without regard to the identity of the issuer of the credit card being presented by the purchaser, this activity, too, would not be considered to be branching function. See OCC Interpretive Letter No. 814, reprinted in [Current Binder], Fed. Banking L. Rep. (CCH) ¶ 81-262 (November 3, 1997) (national bank subsidiary's offices that, in fact, disburse loan proceeds, on behalf of numerous other financial institutions, including banks and savings associations, on substantially similar terms and conditions as applicable to loans made by parent bank are not branches because they are not facilities to attract bank customers).

<sup>10</sup> In fact, the Supreme Court has specifically recognized that the conduct of a safe deposit box business by a national bank is not constrained by the section 36 branching limitations. See *Clarke* at p. 406.

<sup>11</sup> *E.g., Independent Bankers Association of America v. Smith*, 534 F.2d 921, 944 (D.C. Cir.), cert. denied, 429 US 862 (1976). This court noted that, in using the "shorthand phrase 'checks paid,' [Congress] envisioned all account withdrawals" and included "those facilities that permit bank customers to perform the traditional banking function of withdrawing funds from their accounts."

<sup>12</sup> Under the facts presented, we have no need to consider whether the facility would be considered to be a branch if it *also* cashed checks drawn on the bank itself, whether presented by a bank customer or not.

## **B. Operation of the Courier Service in Space Shared with the LPO/DPO**

Your proposal also contemplates that an [State] courier service, [ ], a subsidiary of [ ] Inc. (together these companies are referred to in this letter as the courier service), a publicly traded company that operates throughout the United States, will operate a pick-up point at the LPO/DPO.

The bank has no ownership interest in the courier service which provides a scheduled and routed delivery service for the pick-up and delivery of documents and other items to or on behalf of a variety of businesses including banks, credit unions, thrifts, finance companies, other financial institutions, pharmaceutical companies, medical laboratories and hospitals as well as universities, military installations, Federal Reserve Bank branches and various governmental agencies. We understand that the company in [State] serves most financial institutions in the state. The company has about 65 employees in [State] and 8,000 nationwide. In [State] alone it operates 33 vehicles and about 150 through owner-operator independent contractors. The pick-up location operated at the LPO/DPO will constitute one of thousands of pick-up locations of the courier service throughout [State] and numerous others nationwide.<sup>13</sup>

Pick-ups at the [City] location are scheduled for 2 p.m. each business day and, following each day's pick-up, the courier service will not receive items at its [City] site for the remainder of that day because it prefers that no items be left in the box overnight.<sup>14</sup> The courier service will include the [City] site in its list of service locations in the telephone book and in its advertising. Moreover, the presence of the courier service's pick-up location will be advertised by signage in the window of the premises shared with the LPO/DPO. The service will be available for use by the general public and the courier service will deliver items dropped off at the site to any destination in [State] and nationwide that it would normally serve. This could include deposits being sent to the bank or to any other bank or other type of financial institution as well as deliveries to recipients, other than financial institutions, of other items normally transported by the courier service.

As stated, national banks are permitted to share space with other entities under 12 USC 7.3001(a) subject to the

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<sup>13</sup> In fact, in [State] alone, vehicles operated by and on behalf of the company make about 6,000 stops per day although the number of locations served is less than that because pick-ups may occur more than once a day at certain sites.

<sup>14</sup> In this regard, we note that the courier service assumes responsibility for items once they are dropped off at its pick-up point and during transit.

requirements set forth in paragraph (c).<sup>15</sup> The bank has represented that these requirements will be satisfied. Moreover, section 7.3001 permits the sharing of employees subject to certain requirements set forth in paragraph (c).<sup>16</sup> In the arrangement proposed, a bank employee will provide limited services to the courier service.<sup>17</sup> Consequently, the bank also has agreed to comply with restrictions that pertain to the use of shared personnel.

We further note that the courier service clearly complies with the factors set forth in 12 USC 7.1012(c)(2) which provides a safe harbor to determine when a courier service that transports items for deposit to a national bank should not be considered to be a branch of that bank. As discussed above, the courier service makes its services available to the public including other depository institutions,<sup>18</sup> retains ultimate discretion to determine which customers and which geographical areas it will serve,<sup>19</sup> maintains ultimate responsibility for scheduling, movement, and routing,<sup>20</sup> does not operate under the name of the bank

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<sup>15</sup> These requirements pertain to conspicuous identification of the businesses, that the arrangement does not constitute a joint venture or partnership, that the relationship between the entities is at arm's length, that security issues are resolved, that the activities of the other business do not adversely affect the safety and soundness of the bank, and that the assets and records of the parties are segregated.

<sup>16</sup> In addition to those requirements listed in footnote 15, requirements triggered by the sharing of employees are that these employees fully disclose the nature of their relationship to the customers so that customers will know the identity of the bank or other business that is providing the service and that the shared employees meet licensing or qualification requirements, if any, applicable to the other business.

<sup>17</sup> As proposed, when a customer enters the facility, a bank employee will determine whether the customer intends to drop an item off at the courier service's pick up point. If the customer intends to do so and has not already signed a contract with the courier service, the employee will provide a copy of the contract to the customer to sign. This is done irrespective of the identity of the intended recipient of the item being dropped off. The customer then places the item in the slot at the pick up point. If the item is too big to fit into the slot the employee instructs the customer to contact the courier service directly. In no event will the employee handle the item being dropped off. Items are placed in the slot only by the customer and are picked up only by the courier service's pick up and delivery person. The employee keeps a log of the items placed in the pick-up facility which is given to the courier service's pick-up and delivery person when he or she arrives to collect the contents of the box. With respect to deposits being transported by the courier service, included among the contractual terms is a provision stating that items placed in the courier service's box are not considered to be delivered to the addressee until they are actually delivered to the addressee by the courier service and that the courier service is the agent of the customer.

<sup>18</sup> 12 CFR 7.1012(c)(2)(ii)(A).

<sup>19</sup> *Id.* at (c)(2)(ii)(B).

<sup>20</sup> *Id.* at (c)(2)(ii)(C).

nor will the bank or the messenger service advertise or represent that the service is provided by the bank,<sup>21</sup> assumes responsibility for the items once they are dropped off at its pick-up point and during transit,<sup>22</sup> and acts as agent for the customer.<sup>23</sup> Moreover, when the courier service does transport items for deposit to the bank, they are not credited to the customer's account until they are received at the bank's main office in [ City ].<sup>24</sup> Finally, we note that the courier service provides its services through its own employees and facilities in accordance with 12 CFR 7.1012(c)(2)(i).<sup>25</sup>

### III. Conclusion

Consequently, we conclude that an LPO/DPO of a national bank that provides the services discussed above and which shares space with a pick-up site of a third party courier service, as described, is not a branch of the national bank.

I hope that this has been responsive to your inquiry.

Randall M. Ryskamp  
District Counsel

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<sup>21</sup> *Id.* at (c)(2)(ii)(D).

<sup>22</sup> *Id.* at (c)(2)(ii)(E). In this regard, we note that the courier service will assume responsibility for maintaining adequate insurance covering in-transit losses.

<sup>23</sup> *Id.* at (c)(2)(ii)(F).

<sup>24</sup> *Id.*

<sup>25</sup> While, as described, a bank employee at the LPO/DPO will provide some minimal services when customers of the courier service drop off items, sharing of employees, as noted, is permissible, and will be done in accordance with the applicable regulations codified at 12 CFR 7.3001. Moreover, the fact that one of the courier service's pick-up sites is occupied and utilized by the courier service pursuant to an arrangement with the bank does not require a different result on the branching issue. The factors set forth in the safe harbor are for the purpose of evaluating whether a messenger service is "established" by a national bank and thus, whether its facilities should be considered branches of a national bank. See 12 CFR 7.1012(c)(2); 58 Fed. Reg. 4070, 4071-72 (January 13, 1993) (pre-able to final rule adopting current approach to determining whether a messenger service constitutes a branch of a national bank). That one site out of numerous sites and vehicles utilized by the messenger service to make pick-ups throughout [State] and the United States is made available by a bank which is one of many financial institutions for which the messenger service transports deposits from their customers cannot be said to require that the messenger be considered to be "established" by the bank and, thus, a branch of the bank.

12 USC 92

J. Michael Cutshaw, Esq.  
Phelps Dunbar, L.L.P.  
P.O. Box 4412  
Baton Rouge, LA 70802-5707

Re: Insurance Agency Activities in Louisiana under 12 USC 92

Dear Mr. Cutshaw:

This letter is in response to your request inquiring whether the Office of the Comptroller of the Currency (OCC) would object to national banks soliciting and selling insurance in Louisiana using the same means and facilities generally available to other Louisiana insurance agencies. Consistent with 12 USC 92 and the First Union letter,<sup>1</sup> you represent that a national bank engaged in the banking business in Louisiana (the "bank") may establish the main location of a bank insurance agency subsidiary ("bank agency") in a place of 5,000 or fewer inhabitants ("place of 5,000") where the bank also has a branch.<sup>2</sup> Accordingly, based on the representations in your letter and for the reasons discussed below, we do not object to the bank soliciting and selling insurance in the manner permissible for insurance agencies generally in the state of Louisiana and as would be authorized by the bank's state insurance license.

I. Background

For purposes of this request, the factual situation you describe involves a national bank engaged in the banking business in Louisiana. After submission of the appropriate operating subsidiary application to the OCC and insurance agent license application to the Louisiana Department of Insurance (the DOI), and approval thereof, the bank will establish an insurance agency subsidiary in a "place of 5,000" in which the bank is located and doing business. The bank and bank agency will operate in conformity with the requirements of section 92.

<sup>1</sup> Interpretive Letter No. 753 (Nov. 4, 1996), reprinted in [1996-1997 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81-107 (the "First Union letter") (extensive legal interpretation on the scope of insurance sales activities permissible for national banks under 12 USC 92).

<sup>2</sup> Past OCC letters have referenced a "place of 5,000" as a place with a population of fewer than 5,000 inhabitants. However, the actual language of the statute states "any place the population of which does not exceed five thousand inhabitants." Thus, the OCC clarifies that a "place" of exactly 5,000 inhabitants would satisfy the requirements of section 92.

II. Discussion

A. Section 92 Authorizes Insurance Sales Activities for National Banks

Under 12 USC 92, a national bank located and doing business in a place with a population of 5,000 or less may act as an agent for state-authorized insurance companies by soliciting and selling insurance, collecting premiums, and receiving commissions and fees for these services from the insurance company.<sup>3</sup> By its terms, section 92 does not require a bank's insurance solicitation and sales activities to occur within the "place of 5,000." Specifically, there is no restriction as to either the location of customers or the methodology of sale.

Congress explicitly vested the OCC in section 92 with the authority to prescribe rules and regulations concerning national banks' insurance sales activities.<sup>4</sup> Since 1963, the OCC has interpreted the reach of section 92 to permit a branch office of a bank to act as agent for insurance companies if the branch is located in a place the population of which does not exceed 5,000 inhabitants, even if the main office of the bank is located elsewhere.<sup>5</sup>

The Supreme Court in *Barnett Bank of Marion County, N.A. v. Nelson* examined the language of section 92 and found that section 92 suggests "a broad, not limited permission"

<sup>3</sup> Section 92 states:

In addition to the powers now vested by law in national banking associations . . . any such association located and doing business in any place the population of which does not exceed five thousand inhabitants . . . may, under such rules and regulations as may be prescribed by the Comptroller of the Currency, act as the agent for any fire, life, or other insurance company authorized by the authorities of the State in which said bank is located to do business in said State, by soliciting and selling insurance and collecting premiums on policies issued by such company; and may receive for services so rendered such fees or commissions as may be agreed upon between the said association and the insurance company for which it may act as agent.

12 USC 92.

<sup>4</sup> See *Barnett Bank of Marion County, N.A. v. Nelson*, 517 U.S. \_\_\_, 116 S. Ct. 1103, 1108 (1996); *NBD Bank, N.A. v. Bennett*, 67 F.3d 629, 632 (7th Cir. 1995).

<sup>5</sup> Interpretive ruling 7.1001 provides:

Pursuant to 12 USC 92, a national bank may act as an agent for any fire, life, or other insurance company in any place the population of which does not exceed 5,000 inhabitants. This provision is applicable to any office of a national bank when the office is located in a community having a population of less than 5,000, even though the principal office of such bank is located in a community whose population exceeds 5,000.

12 CFR 7.1001 (formerly 12 CFR 7.7100); see also Interpretive Letter No. 823 (February 27, 1998) (census designated place is a "place" for purposes of section 92).

for national banks to act as the agent for insurance sales.<sup>6</sup> Other courts have followed a fundamentally similar approach in establishing that while the bank or branch must be located in a "place of 5,000," section 92 does not place any geographic restrictions on potential or existing customers to whom a bank or branch may sell insurance pursuant to section 92.<sup>7</sup>

### **B. The "First Union Letter" Analyzes the Scope of Insurance Sales Activities Permissible for a Bank Insurance Agency under Section 92**

Following this judicial precedent, the OCC has construed the language of section 92 to permit national banks to engage in a range of agency insurance activities in conformity with section 92's "place of 5,000" framework. The OCC's First Union letter provides an extensive legal interpretation on the scope of activities permissible under 12 USC 92. The OCC's letter considers the plain language of the statute, the legislative history, the contemporaneous practices of banks and insurance agents in 1916 when the law was enacted, the OCC's longstanding interpretive ruling under section 92 (12 CFR 7.1001), and recent judicial opinions construing the scope of section 92.<sup>8</sup>

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

Accordingly, the First Union letter distills several general principles to define the scope of solicitation and sales activities permissible for national banks under 12 USC 92.<sup>9</sup> In particular, the OCC stated that:

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<sup>6</sup> 517 U.S. \_\_\_, 116 S.Ct. 1103, 1108 (1996).

<sup>7</sup> See *NBD Bank, N.A. v. Bennett*, 67 F.3d 629 (7th Cir. 1995); *Independent Ins. Agents v. Ludwig*, 997 F.2d 958 (D.C. Cir. 1993).

<sup>8</sup> See Interpretive Letter No. 753 (November 4, 1996), reprinted in [1996-1997 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81-107.

<sup>9</sup> The OCC noted in the First Union letter that the principles described are not intended to be exhaustive and recognizes that solicitation and sales techniques may vary with different marketing strategies employed by different banks and still be consistent with the general principles described in the First Union letter.

- The [bank insurance] agency located in the "place of 5,000" must, of course, be *bona fide*. . . . Agents will be managed through the agency and the "place of 5,000" will be the agency's business location for licensing purposes. Each agency will be responsible for collecting commissions from insurance carriers and paying commissions to its licensed sales staff. The agency also generally will be responsible for processing insurance applications, delivery of insurance policies, and collection of premiums, where consistent with procedures of the relevant insurance carriers. In addition, business records of the agency, including copies of customer application and policy information, and licensing, customer complaint and other compliance records, will be available at the "place of 5,000."<sup>10</sup>

The OCC also indicated in the First Union letter that a bank insurance agency and its agents may seek the same market range and use the same marketing tools and facilities as generally available for licensed insurance agencies in the state in which the bank insurance agency operates. This will generally permit the following:

- Meetings with customers and solicitations and sales of insurance by the bank's agents may generally take place at locations inside the "place of 5,000" as well as at locations outside that "place," provided the agents are managed and paid through the bank agency located in the "place of 5,000" and use that location as their place of business for licensing purposes.
- Mailings to advertise and sell insurance may originate from inside or outside of the "place of 5,000" and brochures, leaflets, and other literature alerting potential customers to the bank's insurance activities may be distributed from locations inside and outside of the "place of 5,000," including other branches of the same bank.
- Personnel at bank branches inside and outside of the "place of 5,000" may make referrals to the bank's insurance agency.
- Telephone and cybermarketing may be used and the calls and messages need not originate within the "place of 5,000."
- The bank may contract with third parties to assist the agency's sales activities, including advertising support, direct mail marketing services, telemarketing services, payments processing, and other types of "back office" support.

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<sup>10</sup> Some of these business records may be maintained and available at the agency in electronic form, with the original hardcopy kept in off-site storage.

The OCC noted in the First Union letter that section 92 as enacted in 1916 generally described the ways national bank insurance agencies operated- by soliciting and selling, by collecting premiums, and by receiving commissions and fees for these services- but did not delineate or curtail how these activities were to be conducted by bank insurance agencies. The letter further provided that "Congress permitted national banks to operate effectively in the insurance business that existed in 1916, and also did not restrain banks' ability to modernize their solicitation and sales methods as needed to remain competitive as the insurance business evolved."<sup>11</sup> Hence, the First Union letter concluded that the proposed insurance agency activities occurring both inside and outside of the "place of 5,000" were permissible under section 92.<sup>12</sup>

With respect to the current request, you represent that the bank agency's business location for licensing purposes will be in a "place of 5,000" once established, and that the bank and bank agency will conduct their activities in accordance with the First Union letter's principles. Specifically, you point out that Louisiana law permits an insurance agency, particularly a bank-established agency, to conduct business at locations in addition to the agency's business location shown in its insurance license. You represent that the operations of the bank agency would be conducted at such "satellite office" locations that would be permissible under Louisiana law for nonbank agencies as well as for insurance agencies operated by state banks.

### **C. Louisiana Law Authorizing Insurance Sales Activities**

Louisiana insurance law provides generally that once an insurance agency is established it may then conduct its business from other locations. The Insurance Code provides, in part:

Any insurance agency operating at more than one location shall notify the Commissioner of Insurance of each branch location business address within ten days from the date of the opening of the new location. There must be at least one licensed agent or solicitor with a power of attorney registered with the Commissioner in each branch location.<sup>13</sup>

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<sup>11</sup> First Union letter, *supra* at 33.

<sup>12</sup> Eight national bank subsidiaries of First Union Corporation, Charlotte, North Carolina, submitted notification to the OCC of their intent to establish operating subsidiaries to engage in certain general insurance agency activities pursuant to 12 USC 92, including activities occurring inside and outside of the "place of 5,000."

<sup>13</sup> La. Rev. Stat. Ann. 22:118C.(1)(b).

This provision is applicable to all insurance agencies generally, whether affiliated with a bank or not.

In 1997, the Louisiana legislature adopted two bills applicable to the sale of insurance by banks in the state of Louisiana.<sup>14</sup> The Louisiana Insurance Code now provides that the Commissioner of Insurance will issue appropriate licenses for national and state banks and their respective subsidiaries and employees to engage in insurance activities as agent. Specifically, the insurance law provision states:

The commissioner shall license any qualified state or *national bank*, bank holding company, or any subsidiary or employee thereof to engage in any insurance or annuity activity *as authorized* by R.S. 6:242, as an agent, broker, or solicitor.<sup>15</sup>

Under R.S. 6:242 of the Louisiana Banking Code, state banks have the power:

(6)(a) To act as the agent for any insurance company authorized to do insurance business in this state by soliciting and selling insurance and to receive for services so rendered such lawful commissions or fees as may be agreed upon between the bank and the insurance company for which it is acting as agent. *The location of the insurance agency shall be the address shown on the license application submitted to the Department of Insurance pursuant to the provisions of the Louisiana Insurance Code, notwithstanding the conduct of insurance sales activities at other locations.*<sup>16</sup>

In sum, the banking code provision specifically provides that the location of the bank's insurance agency will be the address as submitted on the license application, notwithstanding bank insurance agency activities being conducted at other locations, and the state insurance law specifically provides that the insurance commissioner shall license state *and national banks* to engage in the insurance agency activities *as authorized* under the state banking code. Thus you maintain that the establishment of insurance agency "satellite office" locations outside of a "place of 5,000" would be permissible under state law both for nonbank insurance agency operations and for state banks.

### **D. Louisiana National Bank Insurance Agency Locations Outside of a "Place of 5,000"**

Given the status of the Louisiana state law with respect to other locations for conducting insurance sales activities,

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<sup>14</sup> See 1997 La. Act No. 606 1 (House bill 1362); 1997 La. Act No. 1475 2 (House bill 2509).

<sup>15</sup> La. Rev. Stat. Ann. 22:1113 G. (Supp. 1998) (emphasis added).

<sup>16</sup> La. Rev. Stat. Ann. 6:242 A.(6)(a)(Supp. 1998) (emphasis added).

you have asked us not to object if a national bank insurance agency located in a "place of 5,000" also does business through satellite offices at other locations outside of a "place of 5,000." As described earlier in this letter, section 92 and the First Union letter do not prohibit national banks from conducting their insurance solicitation and sales activities from outside the "place of 5,000." In fact, the First Union letter recognizes that national bank insurance agencies located in a "place of 5,000" should be permitted the same marketing range and be able to use the same marketing tools and facilities as generally available under state law for licensed nonbank insurance agencies or licensed agents with offices in a "place of 5,000."

In Louisiana, state law expressly contemplates that insurance agencies will operate from more than one location. Similarly, state law authorizes the Commissioner of Insurance to license both state and national banks to solicit and sell insurance "as authorized by R.S. 6:242" of the Louisiana Banking Code. The cited provision, moreover, specifically provides that the location of such a bank-established insurance agency is the address on the license, notwithstanding that insurance sales activities occur at other locations. Thus, for a national bank in Louisiana, the use of the same methods and facilities available to licensed insurance agencies generally, as well as to state bank insurance agencies, includes the ability of the national bank insurance agency to establish locations of the agency outside of the "place of 5,000" and to engage in insurance sales activities at those locations.<sup>17</sup>

### III. Conclusion

Accordingly, based on the foregoing facts and discussion, and the representations made in your incoming letter, we do not object to national banks or their subsidiaries, if licensed under Louisiana law, relying on section 92 and the First Union letter, soliciting and selling insurance in the same manner permissible in the state of Louisiana for insurance agencies generally and for bank-established insurance agencies in particular. If you should have any questions, please feel free to contact me (202) 874- 5200 or Suzette H. Greco, senior attorney (202) 874- 5210.

Raymond Natter  
Acting Chief Counsel

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<sup>17</sup> As you mentioned, other locations or so-called "satellite offices" will enable the bank to serve its insurance customers more efficiently, and also will help the bank meet the competitive challenge of other insurance agencies which are subject to no geographic limitations in Louisiana.

## 845— October 20, 1998

### 12 USC 24(7)

Ms. Karol K. Sparks  
Krieg DeVault Alexander & Capehart  
One Indiana Square  
Suite 2800  
Indianapolis, Indiana 46204- 2017

Dear Ms. Sparks:

This responds to your request that the Office of the Comptroller of the Currency (OCC) confirm that a national bank may establish an operating subsidiary ("subsidiary") to serve as a captive insurance company for the purpose of providing insurance coverages on the business risks of the parent bank and its bank affiliates. Your request is on behalf of Old National Bank in Evansville, Indiana ("bank"), a subsidiary of Old National Bancorp., Inc. (ONBI). Based on the information and representations provided, and for the reasons discussed below, we agree with your conclusion that the proposed activities would be permissible under the National Bank Act.

### I. Background

#### A. Operating a Bank as a Business Enterprise

National banks are authorized to be formed to carry on the business of banking,<sup>1</sup> and once formed are not only empowered to conduct that business but to exercise all such "incidental powers" as are needed to enable them to conduct the banking business.<sup>2</sup> For example, as part of the "business of banking" a national bank is specifically permitted to acquire and hold property "necessary for its accommodation in the transaction of its business."<sup>3</sup> National banks are also authorized to make contracts,<sup>4</sup> sue and be sued as fully as natural persons,<sup>5</sup> and elect or appoint directors.<sup>6</sup> The board of directors of the bank may appoint presidents, vice presidents, cashiers, and other officers; define their duties; require bonds of them, and dismiss these officers at will and appoint others to fill their places.<sup>7</sup>

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<sup>1</sup> 12 USC 21, 24(Seventh).

<sup>2</sup> 12 USC 24(Seventh).

<sup>3</sup> 12 USC 29(First). *See also* 12 CFR 7.1000.

<sup>4</sup> 12 USC 24(Third).

<sup>5</sup> 12 USC 24(Fourth).

<sup>6</sup> 12 USC 24(Fifth).

<sup>7</sup> *Id.*

## B. The Risks Associated with Operating a Bank as a Business Enterprise

In connection with operating the "business" of a bank, e.g., owning property, bringing and defending against suits related to the bank's business, and hiring and managing employees, a national bank assumes certain risks associated with its business. Similar to any other business organization, the bank must manage these risks. The OCC assesses banking risk relative to its impact on capital and earnings, and has defined nine categories of risk for bank supervision purposes. These categories of risk are: credit, interest rate, liquidity, price, foreign exchange, transaction, compliance, strategic, and reputation.<sup>8</sup> The risks associated with operating the "business" of a bank primarily are transaction and compliance risks. Examples of these types of risks include losses from damage to the bank's property; losses in connection with suits resulting from injury or death of both employees and the public, suits alleging official misconduct, and individual or class action suits alleging mistreatment or the violation of laws or regulations; and losses resulting from the loss of key personnel.

The OCC defines "transaction risk," which also is referred to as "operating" or "operational risk," as the risk to earnings and capital arising from fraud, error, and the inability to deliver products or services, maintain a competitive position, and manage information.<sup>9</sup> Risk is inherent in efforts to gain strategic advantage, and in the failure to keep pace with changes in the financial services marketplace. Transaction risk encompasses: product development and delivery, transaction processing, systems development, computing systems, complexity of products and services, and the internal control environment.

The OCC defines "compliance risk" as the risk to earnings or capital arising from violations of, or noncompliance with, laws, regulations, prescribed practices, internal policies and procedures, or ethical standards.<sup>10</sup> Compliance risk can lead to diminished reputation, reduced franchise value, limited business opportunities, reduced expansion potential, and lack of contract enforceability. Specifically, this risk includes exposure to litigation from all aspects of banking and blends into operational risk.

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<sup>8</sup> See *Comptroller's Handbook*, "Large Bank Supervision" (July 1998); see also *Comptroller's Handbook*, "Bank Supervision Process" (April 1996).

<sup>9</sup> See *Comptroller's Handbook*, "Large Bank Supervision," *supra*, at 74; *Comptroller's Handbook*, "Bank Supervision Process," *supra*, at 20.

<sup>10</sup> See *Comptroller's Handbook*, "Large Bank Supervision," *supra*, at 77; *Comptroller's Handbook*, "Bank Supervision Process," *supra*, at 21.

Banks effectively assume these operational risks since they are a component— an unavoidable aspect— of conducting a banking business. To manage these risks, a bank may purchase insurance,<sup>11</sup> assume the risks directly, or transfer these risks to a subsidiary or affiliate. Several factors may influence a bank's decision to purchase insurance coverage or to self-insure: the cost of coverage versus the probability of the occurrence of a loss; the cost of coverage versus the size of the loss of each occurrence; and the cost of coverage versus the cost of correcting a situation that could result in a loss.

As discussed below, inherent in the power of national banks to carry on a "business" under 12 USC 24(Seventh), is the authority to assume risks associated with operating a bank. Thus, the business of banking necessarily includes the presence of those risks as well as the ability to *manage* them to the bank's best advantage.

A national bank may establish or acquire an operating subsidiary to conduct, or may conduct in an existing operating subsidiary, activities that are part of or incidental to the business of banking, pursuant to 12 USC 24(Seventh), and other activities permissible for national banks or their subsidiaries under other statutory authority.<sup>12</sup> Since we conclude that the proposed self-insurance activities are permissible for a national bank, they are therefore permissible for a national bank's operating subsidiary as well.

## C. The Proposed Insurance Activities

Under the proposal, the bank would establish the subsidiary as a captive insurance company authorized to provide insurance coverages exclusively on the risks of the bank and its bank affiliates. The subsidiary would be established in the State of Vermont and would be subject to applicable Vermont insurance laws and regulations, including capital and reserve requirements.<sup>13</sup> The subsidiary also would be subject to requirements that restrict captive insurance companies to writing coverages for the parent company and its affiliates.<sup>14</sup> As a result, the subsidiary would have no corporate authority in any jurisdiction to extend its underwriting business beyond affiliate risks.

The subsidiary would primarily reinsure credit-related insurance in connection with loans made by the bank and affiliated banks. Further, the subsidiary would insure

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<sup>11</sup> In addition to specialized forms of insurance that banks may require, such as fidelity bond coverage, banks may also need many of the same types of insurance coverages required by any business or individual.

<sup>12</sup> 12 CFR 5.34(d)(1).

<sup>13</sup> Vt. Stat. Ann. tit 8 6004 and 6005.

<sup>14</sup> Vt. Stat. Ann. tit 8 6001(12).

1) retentions (deductibles) on lines of property and casualty insurance (including fiduciary coverages) of the bank and its bank affiliates;<sup>15</sup> 2) other business risks, such as catastrophic loss on buildings utilized by the bank and its bank affiliates; and 3) errors and omissions insurance on activities of the bank's affiliates, to the extent the risk is "self-insured." The subsidiary would reinsure the risks with its current insurance underwriter, except as to some or all of the retention amounts and self-insured amounts currently assumed by the bank and its bank affiliates. Thus, the subsidiary would not take on risks under the proposal greater than the risks currently undertaken by the bank and its affiliates. The decision of ONBI to "self-insure" the risks of loss associated with its banking businesses through the subsidiary, instead of managing the risks as an operating loss of each of its subsidiary banks, will offer ONBI an important risk management product and enable the bank to benefit from business efficiencies that are accomplished by the proposed arrangement.

## II. Legal Analysis

National banks have long been recognized to have broad authority to underwrite, reinsure, and sell as agent, credit-related insurance products.<sup>16</sup> In addition, as discussed

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<sup>15</sup> The bank represents that the Vermont Department of Insurance will only permit a captive insurance company of this type to underwrite property and casualty insurance products. Accordingly, the subsidiary would not underwrite life, accident or health coverages for the bank or its affiliates.

<sup>16</sup> See Corporate Decision No. 98-28 (May 11, 1998) (authorizing Fleet National Bank's application to establish operating subsidiaries to underwrite and reinsure credit life insurance, credit disability insurance, and involuntary unemployment insurance sold to customers that borrow from the bank and its lending subsidiaries); Corporate Decision No. 97-92 (October 17, 1997) (authorizing Bank of America's application to establish an operating subsidiary to underwrite and reinsure credit disability and involuntary unemployment insurance sold to customers that borrow from the bank's lending affiliates); Interpretive Letter No. 812, *reprinted in* [Current Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81-260 (December 29, 1997) (authorizing the sale, as agent, of credit-related crop insurance); Letter dated March 31, 1995 (unpublished) (authorizing reinsurance of credit-related involuntary unemployment, life, and disability insurance); Letter dated June 17, 1993 (unpublished) (authorizing the sale, as agent, of credit-related mechanical breakdown insurance); Letter dated June 3, 1986 (unpublished) (authorizing the sale, as agent, of credit-related vendors double interest insurance); Interpretive Letter No. 283, *reprinted in* [1983-1984 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,447 (March 16, 1984) (authorizing the sale, as agent, of credit-related life, disability, involuntary unemployment, and vendors single interest insurance); Interpretive Letter No. 277, *reprinted in* [1983-1984 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,441 (December 13, 1983) (authorizing underwriting and reinsurance of credit-related life insurance); see also 12 CFR Part 2 (Sales of Credit Life Insurance); *IBAA v. Heimann*, 613 F.2d 1164 (D.C. Cir. 1979), *cert. denied*, 449 US 823 (1980) (confirming the OCC's authority to adopt its credit life insurance regulation at 12 CFR Part 2).

below, the proposed self-insurance activities are part of, or incidental to, the business of banking.

### A. The "Business of Banking"

Judicial cases reflect three general principles used to determine whether an activity is within the scope of the "business of banking": 1) is the activity functionally equivalent to or a logical outgrowth of a recognized banking activity; 2) would the activity respond to customer needs or otherwise benefit the bank or its customers; and 3) does the activity involve risks similar in nature to those already assumed by banks.<sup>17</sup>

#### 1. Functionally Equivalent to or a Logical Outgrowth of Recognized Banking Functions

Pursuant to 12 USC 24(Seventh), a national bank is authorized generally to conduct the business of banking. Inherent within this authority is the ability, similar to any other company, to assume the risks of loss associated with operating its banking business, and to seek to manage and control those risks to the bank's best advantage. As previously discussed, those risks may include losses from damage to the bank's property; losses in connection with suits resulting from injury or death of both employees and the public, suits alleging official misconduct, and individual or class action suits alleging mistreatment or the violation of laws or regulations; and losses resulting from the loss of key personnel.

The responsibility for controlling operational risks is generally left with bank management, who have many options in managing a particular risk.<sup>18</sup> Banks may manage risks of a banking business by purchasing insurance covering potential losses or may retain these risks by not purchasing insurance or purchasing limited coverages. Through the proposed self-insurance arrangements, the subsidiary would retain risks that could similarly be retained by the bank by not purchasing insurance. These self-insurance activities thus are functionally equivalent to or a logical outgrowth of the bank's authority to assume the risk of loss associated with conducting a banking business, and are part of the business of banking pursuant to 12 USC 24(Seventh).

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<sup>17</sup> See, e.g., *Merchants' Bank v. State Bank*, 77 U.S. 604 (1871); *M & M Leasing Corp. v. Seattle First National Bank*, 563 F.2d 1377, 1382 (9th Cir. 1977), *cert. denied*, 436 U.S. 956 (1978); *American Insurance Association v. Clarke*, 865 F.2d 278, 282 (2d Cir. 1988).

<sup>18</sup> See *Comptroller's Handbook*, "Large Bank Supervision" (July 1998); *Comptroller's Handbook*, "Bank Supervision Process" (April 1996).



The bank also proposes to reinsure its insurance coverages so that it will achieve the same risk exposures it currently holds through the purchase of insurance. At present, the bank does not insure deductibles and manages the risk of loss (*i.e.*, self-insures) on the described activities of the bank and its bank affiliates. Through the proposed reinsurance arrangements, the bank would retain these same risks, and transfer other risks to its current insurance underwriter. Thus, the proposed self-insurance and reinsurance arrangements are functionally equivalent to and a logical outgrowth of existing insurance and *de facto* self-insurance arrangements. The subsidiary may assume risks arising from operating a banking business from both its parent and bank affiliates. As discussed above, each of the affiliated banks separately has the authority to self-insure risks arising from its banking operations. Each bank also may transfer those risks to a subsidiary to manage its risk exposure.<sup>19</sup> Similarly, each bank or its subsidiary may assume risks arising from banking operations from affiliates for a fee and establish reserves to cover

potential losses.<sup>20</sup> Since a bank and its bank affiliates are separately able to assume the risks arising from their banking business, and since bank affiliates may transfer these business risks to one another, consolidating these risks within a national bank subsidiary is permissible. Consolidation is simply a business decision to take advantage of the benefits of a centralized operation.<sup>21</sup>

The proposed self-insurance activities are similar to other self-insurance activities approved by the OCC for national bank subsidiaries. For example, the OCC has authorized a national bank subsidiary to underwrite and reinsure safe deposit box liability insurance for the bank and its affiliates engaged in the safe deposit box business.<sup>22</sup> The OCC's rationale for authorizing this activity was that self-insurance through the subsidiary is a way for the bank organization to pool the risks of the safe deposit business, and is essentially an internal risk management function that is being centralized for risk management efficiencies.<sup>23</sup> Thus, the fact that the banking companies had chosen for business reasons to consolidate this activity in a single bank subsidiary, did not limit the subsidiary's authority to engage in the proposed self-insurance activity. Similarly, as discussed above, the bank may choose for business reasons to self-insure bank operating risks through the subsidiary, rather than through each affiliate individually.

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<sup>19</sup> We note that the OCC has, on many occasions, permitted national banks to perform services for affiliates. See Interpretive Letter No. 513, *reprinted in* [1990-1991 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,215 (June 18, 1990) ("Allowing a bank holding company to consolidate servicing operations in a single entity permits all of the banks in the holding company to enjoy economies of scale in obtaining the services."). See also Corporate Decision No. 97-92 (October 17, 1997) (permitting Bank of America to establish a subsidiary to self-insure the safe deposit box liability insurance of the bank and its affiliates in the safe deposit business); Interpretive Letter No. 493, *reprinted in* [1989-1990 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,078 (November 22, 1989) (a national bank may establish a subsidiary to provide deposit account services to an affiliated national bank); and Interpretive Letter No. 398, *reprinted in* [1988-1989 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,622 (September 28, 1987) (a bank holding company may consolidate security and guard services in a subsidiary of a national bank). We also note that bank holding companies are authorized to furnish services to, or perform services for, their affiliates under section 4(c)(1)(C) of the Bank Holding Company Act of 1956, as amended. 12 USC 1843(c)(1)(C). The Board of Governors of the Federal Reserve System has specifically authorized bank holding companies to underwrite insurance coverages, including property and casualty insurance, for affiliates under this authority. 12 CFR 225(b)(2)(ix); see also Letter dated April 12, 1995, from J. Virgil Mattingly, Jr., General Counsel, to Michael Briggs, permitting Barnett Banks, Inc., to organize a wholly owned subsidiary to engage in underwriting commercial general liability, automobile liability, workers compensation, property, and bankers' transportation coverages on the risks of the bank holding company and its subsidiaries.

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<sup>20</sup> See Letter from James M. Kane, District Counsel, to Ballard W. Cassady, Jr. (June 8, 1988) (unpublished) (permitting national banks to participate in the ownership of a captive insurance company to provide officers' liability and financial institution bond coverage); Letter from Larry A. Mallinger, Senior Attorney, to James R. Cameron (March 13, 1987) (unpublished) (permitting national banks to participate in a nonassessable mutual captive insurance company to provide directors' and officers' liability insurance); Letter from Richard V. Fitzgerald, Chief Counsel, to John J. Gill (October 22, 1986) (unpublished) (permitting national banks to participate in a non-assessable mutual, not-for-profit insurance company as policyholders, in order to obtain insurance protection for themselves and their management, although the policyholder banks were also considered insurers as well as insureds). See also Corporate Decision No. 97-92 (October 17, 1997) (permitting Bank of America to self-insure the safe deposit box liability insurance of the bank and its affiliates in the safe deposit business); OCC Bulletin 96-51 (September 20, 1996) on Bank Purchases of Life Insurance, Guidelines for National Banks (As an alternative to purchasing corporate-owned life insurance, a bank may choose to self-insure against the risk of potential loss arising from the untimely death of a "key-person.").

<sup>21</sup> Corporate Decision No. 97-92 (October 17, 1997).

<sup>22</sup> *Id.*; see also OCC Bulletin 96-51 (September 20, 1996) on Bank Purchases of Life Insurance, Guidelines for National Banks (As an alternative to purchasing corporate-owned life insurance, a bank may choose to self-insure against the risk of potential loss arising from the untimely death of "key-person.").

<sup>23</sup> See Corporate Decision No. 97-92 (October 17, 1997).

## 2. Respond to Customer Needs or Otherwise Benefit the Bank or its Customers

As discussed above, the responsibility for controlling operating risks is generally left with bank management, who have many options in managing a particular risk. Banks may manage these risks by purchasing insurance covering potential losses or may retain these risks by not purchasing insurance or purchasing limited coverages. The proposed self-insurance activities would benefit the bank and its subsidiary because they would enable the bank and the subsidiary to manage the risks in the banking business and to obtain new business efficiencies. The subsidiary's involvement in these activities would benefit the bank by providing a more efficient risk management mechanism for the bank's own business. It may also expand the options of the bank and its bank affiliates in choosing their insurance coverages.

## 3. Risks Similar in Nature to Those Already Assumed by National Banks

The risk assumed by a bank when it underwrites insurance for its own business or for its affiliates is essentially the same type of risk a bank already assumes in its banking business. The OCC has previously recognized that a national bank may insure for itself the risks inherent in its business.<sup>24</sup> In this case, the bank would be transferring its own and its bank affiliates' risks to the subsidiary.

Moreover, the subsidiary would reinsure the risks with the bank's current insurance underwriter, except as to some or all of the retention amounts and self-insured amounts currently assumed by the bank and its bank affiliates. Thus, the proposed arrangements would not alter the nature of the risks involved, because the subsidiary would not take on risks under the proposal different than the risks currently undertaken by the bank and its affiliates.

## B. The "Incidental to Banking" Analysis

While we conclude that national banks have the power, as part of their power to carry on a general banking business, to undertake the proposed self-insurance activities as part of the business of banking, even if that authority were not sufficient, the proposed activities would clearly qualify as authorized by being incidental to the bank's banking business.

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<sup>24</sup> See Interpretive Letter No. 544, *reprinted in* [1990-1991 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,256 (February 14, 1991) ("[I]n general, participation in self-insurance plans is a permissible activity for national banks."). See also footnote 19, *supra*.

In *NationsBank of North Carolina, N.A. v. Variable Annuity Life Insurance Co.* [VALIC],<sup>25</sup> the Supreme Court expressly held that the "business of banking" is not limited to the enumerated powers in 12 USC 24(Seventh), but encompasses more broadly activities that are part of the business of banking.<sup>26</sup> The VALIC decision further established that banks may engage in activities that are "incidental" to the enumerated powers as well as to the broader business of banking as a whole.

Before VALIC, the standard often considered in determining whether an activity was incidental to banking was the one advanced by the First Circuit Court of Appeals in *Arnold Tours, Inc. v. Camp* [Arnold Tours].<sup>27</sup> 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."<sup>28</sup> The VALIC decision, however, has established that the Arnold Tours formula provides that an incidental power includes one that is "convenient" and "useful" to the business of banking as a whole, as well as a power incidental to the express powers specifically enumerated in 12 USC 24(Seventh).

A review of relevant case law indicates that there are at least three broad categories of recognizable activities that are incidental to the performance of the business of banking under 12 USC 24(Seventh). The first broad category includes activities "incidental" to operating a bank as a business enterprise. These activities are permissible even though they are not necessarily substantive banking activities. Instead of relating to the delivery of a specific banking product or service, these activities are useful and incidental to the operation of the bank as a business. These types of activities, among others, include hiring employees, issuing stock to raise capital, owning or renting equipment, purchasing the assets and assuming the liabilities of other financial institutions, and borrowing money.<sup>29</sup>

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<sup>25</sup> 513 U.S. 251 (1995) ("VALIC").

<sup>26</sup> *Id.* at 258, n.2.

<sup>27</sup> 472 F.2d 427 (1st Cir. 1972) ("Arnold Tours").

<sup>28</sup> *Id.* at 432 (emphasis added). Even prior to VALIC, the Arnold Tours formula represented a narrow interpretation of the "incidental powers" provision of the National Bank Act. See Interpretive Letter No. 494, *reprinted in* [1989-1990 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,083 (December 20, 1989).

<sup>29</sup> See, e.g., *Wyman v. Wallace*, 201 U.S. 230 (1905) (borrowing is authorized under the statute permitting a national bank to conduct a general banking business); *City Nat'l. Bank of Huron v. Fuller*, 52 F.2d 870 (8th Cir. 1931) (holding it permissible for the national bank to purchase the assets and assume the liabilities of another bank).

To illustrate, for example, the power to borrow money for operations is not among the powers expressly granted to national banks in 12 USC 24(Seventh) nor does it fall within the "business of banking" in the sense that it is a banking activity. While most businesses borrow money, this does not inherently make them banks. Until repealed in 1982, however, a provision in the National Bank Act restricted the scope of permissible borrowing (12 USC 82) and, thus, implicitly recognized the power to borrow.<sup>30</sup> Accordingly, the courts uniformly have held that national banks do have the power to borrow funds in order to operate as a business.<sup>31</sup>

Thus, these incidental activities are performed, and are permissible powers, not because they relate to "banking" products and services, but because they are necessary, or at least convenient and useful, components of conducting the banking business. Similarly, various federal banking statutes implicitly recognize and regulate business activities of banks as businesses, without deeming it necessary to authorize the activities expressly.<sup>32</sup> These powers are incidental to the general grant of power to conduct a business under section 24(Seventh).

The self-insurance activities the bank proposes would qualify as incidental to the business of banking because they facilitate, and are convenient and useful to, the operation of the bank as a business. Further, these types of activities permit management of operational risks to the bank's best advantage by enabling the bank and the subsidiary to manage in a new way operating risks that arise from the business aspects of banking. Thus, overall, this approach for meeting the bank's insurance needs will increase business efficiencies for the bank and is both convenient and useful.

A second broad category of "incidental" activities to the performance of the business of banking optimizes the use and value of a bank's facilities and competencies, and enables the bank to avoid economic waste. Reviewing the scope of national banks' incidental powers authority, courts have determined that, within reasonable limits, certain business-related activities may be incidental to banking when those activities enable a bank

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<sup>30</sup> 12 USC 82, *repealed by* Pub. L. 97-320, Title IV, 402, 96 Stat. 1510 (1982).

<sup>31</sup> *See, e.g., Aldrich v. Chemical Nat'l Bank*, 176 U.S. 618 (1900) (holding it permissible for the national bank to borrow money when necessary for banking business); *Auten v. United States Nat'l. Bank of New York*, 174 U.S. 125 (1899) (borrowing money falls under the usual course of legitimate banking business).

<sup>32</sup> *See, e.g.,* 12 USC 78 (defining persons ineligible to be bank employees); 12 USC 83 (putting limitations on national bank's purchase of stock); 12 USC 371d (limiting the amount of investment permitted in a bank premises corporation subsidiary); 12 USC 371c (defining "affiliates" to include subsidiaries owned by national banks).

to realize gain or avoid loss from activities that are part of, or necessary to, the operation of the bank's banking business.<sup>33</sup> For example, as one court observed: "A national bank may lawfully do many things in securing and collecting its loans, in the enforcement of its rights and the conservation of its property previously acquired, which it is not authorized to engage in as a primary business."<sup>34</sup>

Similarly, the proposed self-insurance activities would enable a bank to realize gain or avoid loss from activities that are part of or necessary to its banking business. Insuring coverages on the risks of the bank and its bank affiliates would enable the bank and ONBI to take advantage of business efficiencies accomplished by conducting the proposed insurance activities. The ability to conduct this activity in a subsidiary of the bank, instead of in a subsidiary of each affiliated bank, would provide ONBI with organizational flexibility that would enable ONBI to avail itself of benefits that result from conducting the activity in the most efficient manner, and thereby avoid economic waste.

A third identifiable category involves "incidental" activities that enhance the quality and efficiency of the content or delivery of banking products or services. Case authority holds that national banks have an incidental power to promote their banking products and services.<sup>35</sup> By improving the efficiency and profitability of its business operations, a bank can more effectively promote its banking products and services. The insurance activities proposed for the subsidiary would enhance the efficiency of the bank's and its affiliates' business, and enhance their ability to promote banking products and services. Self-insurance through the subsidiary would be a way for the bank to pool the risks associated with the business of banking, and essentially would be an internal risk management function that is being centralized to achieve efficiencies in promoting banking products and services.

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<sup>33</sup> *See, e.g., Morris v. Third Nat'l Bank*, 142 F. 25 (8th Cir. 1905), *cert. denied*, 201 U.S. 649 (1906) ("*Morris*") (national bank securing and collecting on loans lawfully may engage in activities to manage and protect its rights that the bank could not do as a primary business); *Cooper v. Hill*, 94 F. 582 (8th Cir. 1899) (where a national bank owned an abandoned mining property, bank had authority under its incidental powers to expend money to put the property in presentable condition to attract purchasers); *Cockrill v. Abeles*, 86 F. 505 (8th Cir. 1898) (national bank may purchase other undivided interests in property if necessary to manage or dispose of other previously acquired property to better advantage); *First Nat'l Bank v. National Exchange Bank*, 92 U.S. 122 (1875) (compromises to avoid or reduce losses may be necessary for national banks in certain situations).

<sup>34</sup> *Morris*, 142 F. at 25.

<sup>35</sup> *See generally Franklin Nat'l. Bank v. New York*, 347 U.S. 373 (1954); *Clement National Bank v. Vermont*, 231 U.S. 120 (1913); *Carbide v. Devon Bank*, 299 N.E.2d 521, 12 Ill. App. 3d 559 (1973).

Thus, even if the proposed insurance activities were not part of the business of banking conducted by ONBI, they clearly are permissible "incidental" activities because they offer efficiencies that facilitate the operation of the bank as a business, promote profitability and avoid economic waste, and enhance the bank's ability to promote its products and services.

### III. Conclusion

Based on the foregoing facts and analysis, we agree with your conclusion that the proposed self-insurance activities are permissible for national banks under the National Bank Act. Any specific application by a national bank to establish a self-insurance subsidiary will be reviewed by the OCC for compliance and safety and soundness considerations associated with the specific facts and circumstances of the application.<sup>36</sup>

Raymond Natter  
Acting Chief Counsel

**846— June 29, 1998**

### 12 UCS 36(j)

Dear [ ]:

This is in response to your inquiry of May 1, 1998, asking whether nonbranch offices of [ ] (the bank), and its subsidiary, [ ], (the mortgage company), would be considered to be branches if a title insurance agency subsidiary of an affiliated state bank, [ ], (respectively referred to as the title agency subsidiary and the state bank) in its capacity as escrow agent closed loans and

disbursed funds to borrowers at those sites.<sup>1</sup> As discussed below, under the facts presented the OCC would not consider these sites to be branches of the bank.

As you explain, both the bank and the mortgage company subsidiary currently use independent third parties for escrow and loan closing services. Funds are transferred by the bank or mortgage company subsidiary by check or electronic transfer to the escrow agent prior to disbursement to the borrower or the borrower's designee. Prior to disbursement the funds are held in the name of the escrow agent. Use of the title agency subsidiary enables the bank to retain the benefits of utilizing a third party for these services.<sup>2</sup> In this regard, you note that because of their reliance on third party closing agents, neither the bank or the mortgage company subsidiary have a cadre of closing personnel on which to rely for escrow and closing services. Using personnel from the affiliate would avoid the cost in time and money of training additional personnel and, moreover, because of the availability of more personnel, it permits an expanded number of closings and locations at which closings could be accommodated on a particular day. Further, you note that there is an inherent convenience in having the title insurance entity that is obtaining the first lien letter for a property, and will therefore be familiar with its details, qualifications and limitations, also perform the escrow and closing work for the same property. As you note, fewer procedures and documents need be duplicated and internal communications within the agency are facilitated.

In addition, you note that closing of the loans by bank or mortgage company personnel creates a conflict of interest because commissions payable to bank and mortgage company personnel for originating loans are dependent on the actual closing of those loans. You are concerned that if bank and mortgage company personnel were also engaged in the closing of the loans, this could create otherwise avoidable incentive to not properly apply standards for escrow and closing services.

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<sup>1</sup> As we understand the facts, the bank acquired the title insurance agency when it acquired, through merger, [bank] in [month year]. Because the title insurance subsidiary was not located in a place of under 5,000, and, thus, was not a permissible subsidiary for a national bank under 12 CFR 5.34 and 12 USC 92, the bank was given two years to divest or conform the subsidiary. Consequently, the holding company of the bank is contemplating the transfer of the ownership of the title insurance agency from the bank to an existing insurance agency subsidiary of the state bank. This would permit the holding company to retain the title insurance agency subsidiary in the corporate family.

<sup>2</sup> As you note, the Real Estate Settlement Procedures Act does not permit a lender to require the borrower to use an affiliated title agency or closing agent. After a borrower accepts a loan commitment, the borrower is free to choose any title agency or closing agent that is reasonably acceptable to the lender.

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<sup>36</sup> A specific proposal by a national bank to establish a subsidiary to underwrite insurance coverages on the business risks of the parent bank and its bank affiliates requires an application and would be subject to the OCC's review under 12 CFR 5.34. The OCC's review would include an assessment of whether any supervisory concerns or legal issues in addition to those discussed herein are presented in each case. Also, of course, activities of individual banks and their subsidiaries are subject to other applicable laws and regulations.

Title 12 USC 7.1003(a) provides:

(a) *General.* For purposes of what constitutes a branch within the meaning of 12 U.S.C. 36(j) and 12 C.F.R. 5.30<sup>3</sup>, "money" is deemed to be "lent" only at the place, if any, where the borrower in-person *receives loan proceeds directly from bank funds*:

(1) From the lending bank or its operating subsidiary; or

(2) At a facility that is established by the lending bank or its operating subsidiary.

(Emphasis added.)

The OCC has long recognized that acting as an escrow agent at a loan closing is a line of business that may be provided by a variety of parties—attorneys, title companies, or other escrow agents.<sup>4</sup> In fact, in the present case, you estimate that about five percent of the title agency subsidiary's business will be in connection with loans made by nonaffiliated lenders. Thus, where the funds that are disbursed to a borrower are held in the name of such an escrow agent and are, in turn, disbursed by that agent to the borrower that does not constitute a transaction between the bank and the borrower and, consequently, no branching issues arise regardless of the location of the closing and disbursement.<sup>5</sup> Moreover, in inter-

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<sup>3</sup> Section 36(j) provides the statutory definition of what constitutes a branch and provides, in pertinent part, that it is a bank's place of business at which "money [is] lent." Section 5.30 incorporates that definition into the OCC's regulations. Section 7.1003 interprets the phrase "money lent" as it is used in those provisions.

<sup>4</sup> See Interpretive Letter No. 368, *reprinted in* [1985-1987 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,538 (July 11, 1986) noting that the "closing agent (an attorney, an escrow company, or an escrow department of a title company or bank) is responsible for coordination among the parties, compliance with all closing instructions received from the parties, proper handling of all legal documents and funds involved in consummating the transaction, and, finally, obtaining a title insurance policy for each party to be insured which complies in form and content with the previously established requirements of the insured."

We note, however, that this letter does not purport to express any opinion about the authority of the state bank in Ohio, which is beyond the jurisdiction of the OCC, to provide the services proposed in the manner proposed.

<sup>5</sup> See Interpretive Letter No. 721, *reprinted in* [1995-1996 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81-036 (March 6, 1996) (affiliate acting as closing agent and disbursing funds held in its own name with respect to loans made by affiliated bank is not considered a branch of the lending bank). See also Interpretive Letters by Christopher Manthey, Senior Attorney, Bank Activities and Structure (December 22, 1994, and August 22, 1995) (unpublished) (checks drawn by a third party escrow agent on his or her own account are the funds of the escrow holder, not the lender; since bank funds are not delivered to the borrower at the closing, the loan is not "made" for branching purposes at that time).

preting section 7.1003(a), the OCC has recognized a variety of reasons that loan funds may be disbursed from funds held by third parties and a variety of mechanisms that are utilized in which funds that are disbursed to borrowers are not at the time of disbursement funds of the bank. In these circumstances, the OCC has recognized that the site of disbursement, when not otherwise a branch of the lending bank, is not considered to be a branch of the lending bank.<sup>6</sup>

Consequently, under 12 USC 7.1003(a) and the facts presented, the OCC would not consider the sites that you describe to be branches of the bank.

Eric Thompson  
Director, Bank Activities and Structure Division

## 847— October 28, 1998

### 12 CFR 7.1000(d)

Central District Office  
One Financial Place, Suite 2700  
440 South LaSalle Street  
Chicago, Illinois 60605

Re: Purchase of Real Estate and Lease to Public School District

Dear [ ]:

This is in response to your submission of materials to the Office of the Comptroller of the Currency (OCC) dated August 28, 1998, and our telephone conversations regarding a proposed real estate purchase and lease transaction that [ ] ("bank") is considering with the Board of Education of [ ] ("school district").

The bank proposes to purchase a 94-acre parcel of unimproved farmland located in [ ] County, [State], for the sum of \$1,060,000. The bank would place the land into a/an [State] land trust with itself as beneficiary, facilitating the sale of partial interests in the property to other parties should the bank wish in the future. The land trust will then

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<sup>6</sup> See Decision of the Comptroller of the Currency to Approve Applications By TCF Financial Corp., Minneapolis, Minnesota, To Convert Federal Savings Banks Located in Minnesota, Michigan, Illinois, and Wisconsin And to Establish De Novo Banks in Ohio and Colorado and To Engage in Certain Related Transactions, p.26, n. 41 (OCC Corporate Decision 97-13, February 24, 1997); OCC Interpretive Letter No. 818 by Eric Thompson, Director, Bank Activities and Structure Division (January 12, 1998).

enter into a 15-year, full net payout lease with the school district, at the conclusion of which the property will be sold to the school district for a nominal sum. The school district intends to construct a public school facility on the land.

During our telephone conversations, you advised that the bank has reviewed the financial condition of the school district and confirmed its ability to make the projected monthly lease payments based on future tax revenues dedicated to building lease payments. Prior to entering into the transaction, a legal opinion will be obtained concluding that the school district has the legal authority to enter into the proposed lease as well as to utilize its public funding levy to make monthly payments as required.

As we have discussed, federal law limits the ability of national banks to hold real property.<sup>1</sup> The OCC has, however, issued interpretive rulings authorizing national banks to provide lease financing of public facilities.<sup>2</sup> Under this scenario, a national bank is permitted to acquire land and buildings or construct new facilities and lease it to a municipality or other public authority having sufficient resources to make all rental payments. At the conclusion of the lease term, title of the property is then transferred from the bank to the lessee. Accordingly, this transaction is essentially a loan secured by real estate. As such it is subject to the provisions of 12 USC 84.

Based upon OCC Interpretive Ruling 7.1000 and the foregoing line of established precedence, the leasing transaction as proposed is permissible. This analysis is based upon the facts presented in your letter and representations made to this office; different circumstances may affect the conclusions contained herein. If you have any further questions, please contact me or Roger Bainbridge at (312) 360- 8805.

Christopher G. Sablich  
Senior Attorney

**848— November 23, 1998**

## **12 USC 24(7)**

Dear [ ]:

This is in response to your letter of August 13, 1998, concerning a retirement plan established for certain executive officers by your client, [ ] ("the bank"). OCC examiners have questioned whether one aspect of the plan is in accordance with OCC legal precedent, and you have requested an opinion on this matter. As explained more fully below, it is my opinion that the plan is legally permissible as currently structured.

### **Facts**

According to your letter, the bank has established a salary continuation plan for two executive officers and a director retirement plan for seven directors. The plans are nonqualified, supplemental retirement plans,<sup>1</sup> and are established through separate contracts with each of the individuals involved. You provided a copy of the contract for the salary continuation plan ("the plan") with one of the bank executives as an example, and this letter will therefore use that contract as the basis for discussion. However, it is my understanding that all of the contracts under both of the plans are substantially the same.

The plan obligates the bank to make post-employment payments— essentially, retirement or severance benefits— to the executive or his beneficiary. Specifically, it provides for payments to the executive upon his normal retirement, early retirement, or termination prior to retirement due to change in control of the bank. In the case of normal or early retirement, payments are to be made in equal monthly installments for a period of 15 years, while in the event of termination due to change in control of the bank, payment is to be made in a lump sum. In each case, the payment amounts are to be computed from a formula based on the executive's last annual base salary.

The contract also provides that in the event of the executive's death during active employment by the bank prior to retirement, his designated beneficiary will receive specified payments in equal monthly installments for 15 years. In addition, if he dies after retiring but before receiving all of his salary continuation installment payments

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<sup>1</sup> See 12 USC 29.

<sup>2</sup> See 12 CFR 7.1000. See also Letter from Thomas G. DeShazo to Ronald L. Keyser (October 23, 1968) (analyzing predecessor Interpretive Ruling 7.3300); Letter from Thomas G. DeShazo to Byron T. O'Connor (July 22, 1971); Letter from Kenneth W. Leaf to Roger L. Baldinger (November 28, 1972).

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<sup>1</sup> The term "nonqualified" means that the plans do not qualify for special federal tax treatment under the Employee Retirement Income Security Act of 1974, 29 USC 1001 *et seq.*, because they are unfunded plans whose primary purpose is to provide deferred compensation for a select group of management or highly compensated employees. See 60A Am. Jur. 2d *Pensions and Retirement Funds* 4, 10 (1988).

(i.e., if he dies less than 15 years after retiring), his designated beneficiary will receive the remaining monthly installment payments to which he would have been entitled.

The bank has purchased life insurance on the executive, and will use the death benefits that are eventually received under this policy to recover the cost of payments made to him under the plan. If death occurs under circumstances in which the plan obligates the bank to make installment payments to his beneficiary, the bank will use the insurance proceeds to recover the cost of payments previously made to the executive, if any, and to fund the remaining payments to the beneficiary. The bank has also purchased life insurance on the other executive and directors with similar benefit plans, and will use it in the same manner.

OCC examiners have drawn attention to the plan's provisions requiring installment payments to the executive's beneficiary in the event of his death. They cited a 1983 OCC interpretive letter which concluded that, if a national bank is obligated to pay insurance death benefits to an insured employee's beneficiary, the bank cannot receive the insurance proceeds in a lump sum and then pay them to the beneficiary in installments. Rather, the proceeds must be paid over to the beneficiary in a lump sum. You do not believe this letter applies to the bank's plan, and have requested our opinion.

## Analysis

The OCC's principal issuance on the subject of bank-owned life insurance is OCC Bulletin 96-51 (September 20, 1996). As the bulletin states, the legal authority for national banks to purchase and hold life insurance for their own account is found in 12 USC 24(Seventh), which provides that national banks may exercise "all such incidental powers as shall be necessary to carry on the business of banking." It is the OCC's position that the purchase of life insurance is incidental to banking within the meaning of 12 USC 24(Seventh) if the insurance is convenient or useful in connection with the conduct of the bank's business.

The bulletin lists several specific uses for life insurance that the OCC has found to be incidental to banking, one of which is life insurance purchased "in connection with employee compensation and benefit plans." The OCC has found that salary continuation plans that provide post-retirement benefits for bank officers fall within this category, and thus the purchase of life insurance to fund, or recover the cost of providing, such plans is incidental to banking within the meaning of 12 USC 24(Seventh). Letter of Christopher C. Manthey, senior attorney, Bank Activities and Structure Division (May 14, 1996) (unpublished).

The examiners have not criticized the general purpose for the bank's purchase of life insurance, but rather, its

use in connection with one aspect of the plan. Specifically, they questioned that portion of the plan calling for the payment of benefits to the executive's beneficiary over a 15-year period.<sup>2</sup> A letter to the bank's board of directors stated that the OCC prohibits arrangements calling for installment payments to a beneficiary, and believes that such payments should be made in a lump sum.

This position is based on a 1983 OCC interpretive letter concerning the use of life insurance in connection with a salary continuation plan for key bank executives. That letter stated that it was intended to outline, in general terms, the OCC's position with regard to such programs. Letter of Peter Liebesman, assistant director, Legal Advisory Services Division (April 6, 1983) (unpublished). However, that letter was issued well before OCC Bulletin 96-51, *supra*, which contains the OCC's current general guidance on bank-owned life insurance. Moreover, the letter contains language that appears to be inconsistent with Bulletin 96-51. I therefore conclude that the 1983 letter has been superseded by OCC Bulletin 96-51.

The plan contract provides that the executive and his beneficiary are general, unsecured creditors of the bank for payment of the salary continuation benefits. It provides further that any insurance on the executive's life is a general asset of the bank to which the executive and his beneficiary have no preferred or secured claim. While the bank has purchased life insurance as a funding or cost recovery vehicle for the plan, the insurance is not a benefit under the plan,<sup>3</sup> nor is it a split-dollar policy.<sup>4</sup> The bank's contractual obligation under the plan to make installment payments to the executive's beneficiary under certain circumstances is separate and distinct from the insurance, and would exist even if the bank had not purchased any insurance.

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<sup>2</sup> As explained earlier, this would occur if the executive died before retiring. The plan also provides for installment payments to a beneficiary if the executive dies after retirement but before receiving all of his salary continuation payments. This aspect of the plan was not cited, but presumably the same objection would apply.

<sup>3</sup> The specific focus of the 1983 letter was a plan in which it appears that life insurance was a direct employee benefit, as opposed to a cost recovery vehicle for the bank. In that context, the letter's conclusion that the bank must pay the insurance benefits to the designated beneficiaries in a lump sum rather than installments appears unobjectionable, but that is not the situation in the present case.

<sup>4</sup> A split-dollar policy is one in which the employer and the insured employee share the rights to the policy's cash surrender value and death benefits. Several variations are possible, but in general, upon the employee's death, the employee's beneficiaries receive a designated portion of the death benefits, and the employer receives the remainder. See generally appendix to OCC Bulletin 96-51, pages 3-4.

The appendix to OCC Bulletin 96-51 recognizes that life insurance can be used in this way:

National banks may, as other corporations frequently do, use corporate-owned life insurance (COLI) as a financing or cost recovery vehicle for pre- and post-retirement employee benefits. In these arrangements, banks and other corporations insure the lives of certain employees to reimburse the corporation for the cost of employee benefits . . . . The corporation's obligation to provide employee benefits is separate and distinct from the purchase of the life insurance. The life insurance remains a corporate asset even after the employer/employee relationship is terminated. The employees, whether insured or not, have no interest in the insurance (other than their general claim against corporate assets arising from the corporation's obligation to provide the stated benefits.)

Appendix, page 2.

In the present case, if the executive dies after retiring, having received some or all of his salary continuation payments, the bank will use the insurance death benefits as a cost recovery device, to recoup the amounts that it has already paid out. If the executive dies prematurely, entitling his beneficiary to receive installment payments, the bank will use the insurance death benefits as a funding device, a source of funds for the installments that it has yet to pay out. I do not perceive any legal rationale for permitting life insurance to be used as a cost recovery device, but not a funding device, in connection with a bank's independent contractual obligation to make installment payments. Similarly, I see no legal justification to forbid a national bank from entering into an independent contractual obligation to make installment payments to an officer's or employee's beneficiary as part of a permissible employee benefit plan.

Therefore, I conclude that there is no legal objection to the plan as currently structured, or to the bank's use of life insurance benefits to fund installment payments required under the plan.

This opinion is based on the information that you provided, and a material change in the facts could require a different conclusion. Also, this letter expresses no opinion on other issues that OCC examiners may have raised with the bank.

I hope that this has been responsive to your inquiry. If you have further questions, please do not hesitate to contact me at (202) 874-5300.

Christopher C. Manthey  
Senior Attorney, Bank Activities and Structure Division

**849— November 25, 1998**

## **12 USC 2901**

Dear [ ]:

This letter responds to your request for an opinion regarding whether funds transfer agent agreements (FTAAs), developed by your bank, would receive favorable consideration as a community development (CD) service when the bank is evaluated for Community Reinvestment Act (CRA) performance. As discussed more fully below, providing FTAAs may receive favorable consideration as a CD service under the CRA regulations.

### **The Bank's Funds Transfer Agent Agreement Service**

The bank originally developed the FTAA to meet a financing need in the natural gas marketplace. The FTAA permits the bank to act as a financial intermediary for small, women- and minority-owned natural gas marketers. The FTAA allows these companies to compete in the natural gas market when they would otherwise have difficulty in obtaining traditional financing.

Many new small businesses, including women- and minority-owned small businesses, grow so rapidly that their credit needs quickly outgrow their credit resources. This phenomenon is especially true for small businesses that market energy commodities, such as natural gas, because capital/credit requirements are large while profit margins are small. Generally, financial institutions require borrowers to meet equity-to-debt and minimum tangible net worth requirements before extending them credit. For instance, natural gas marketers are generally required to have between \$100,000 to \$500,000 in equity to execute a short-term natural gas contract with a commodity resale value of \$500,000 to \$1,000,000. Few small businesses have enough equity, or are able to support the issuance of a letter of credit, to satisfy the performance guarantee requirements of the contract.

A typical natural gas contract involving a marketing middleman (marketer) has three main participants: the "marketer," the gas "supplier" and the end "purchaser." Typically, the supplier sells the gas to the marketer, who resells it at a slight profit to the purchaser. Payment for the gas by the purchaser occurs at a date subsequent to delivery. For example, the purchaser might pay for all of the gas delivered in October at the end of November. Because the supplier is not paid on delivery, the marketer is usually required to provide a letter of credit to the supplier during the time between delivery and final payment.

In [year], the [ ] State Assembly issued a directive requiring the state's utilities to increase substantially their



purchases of goods and services from women- and minority-owned businesses. [ ], [State's] largest natural gas utility, determined that credit was a major obstacle to [ ]'s ability to increase its purchases of natural gas from small businesses, including women- and minority-owned small businesses. The FTAA, an innovative financing vehicle, was developed to overcome this obstacle.

Unlike typical natural gas contracts, a natural gas contract that includes the FTAA involves a marketer, a supplier, a purchaser and a financial institution. The marketer signs a FTAA with the financial institution, which provides that the financial institution will act as the marketer's funds transfer agent (FTA). The marketer incorporates the FTAA in the purchase contract with the supplier and the sales contract with the purchaser. The financial institution acts as an intermediary, handling payment from the purchaser to the supplier through a "blocked" account in the marketer's name. (This does not constitute an extension of credit by the financial institution to the marketer.) Title to the gas is instantaneously transferred from the supplier to the marketer to the purchaser. Because the financial institution ensures that funds are directed to the proper parties, the marketer is not required to provide a letter of credit or payment bond to the supplier.

## **CRA Consideration of Funds Transfer Agent Agreement Service**

The CRA regulations establish the framework and criteria by which the agencies assess an institution's record of helping to meet the credit needs of the community. The regulations set out a number of different evaluation methods for examiners to use, depending on the business strategy and size of the institution under examination.

Many services that financial institutions offer to the public are considered during their CRA evaluations. In addition to retail banking services, examiners also consider community development services.<sup>1</sup>

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<sup>1</sup> Examiners evaluate large institutions' community development services under the service test. See 12 CFR 25.24(e), 228.24(e), 345.24(e), and 563e.24(e). Services that enhance credit availability in an institution's assessment area(s), including community development services, may be considered to determine if a small institution merits an outstanding CRA rating. See 12 CFR pt. 25 app. A(d)(2), pt. 228 app. A(d)(2), pt. 345 app. A(d)(2), and pt. 563e app. A(d)(2). The community development test, which is appropriate for wholesale and limited purpose institutions, evaluates, *inter alia*, the number and amount of community development services. See 12 CFR 25.25(c)(1), 228.25(c)(1), 345.25(c)(1), and 563e.25(c)(1). And, finally, institutions evaluated on the basis of a strategic plan must include in their plan how they intend to meet the credit needs of their assessment area(s). They may meet credit needs through lending, investment, and/or services, as appropriate. See 12 CFR 25.27(f)(1), 228.27(f)(1), 345.27(f)(1), and 563e.27(f)(1) (emphasis added).

A "community development service" is a service that:

- (1) Has as its primary purpose community development;
- (2) Is related to the provision of financial services; and
- (3) Has not been considered in the evaluation of the institution's retail banking services.<sup>2</sup>

"Community development" is defined to include:

Activities that promote economic development by financing businesses or farms that meet the size eligibility standards of the Small Business Administration's Development Company or Small Business Investment Company programs . . . or have gross annual revenues of \$1 million or less.<sup>3</sup>

Generally, a community development service will be considered, regardless of the performance test to which the financial institution is subject, if the service benefits the institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s).<sup>4</sup> In addition, examiners will consider limited purpose and wholesale institutions' community development services nationwide if the institution has adequately met the needs of its assessment area(s).<sup>5</sup>

A "community development service" must 1) be related to the provision of financial services; 2) not be considered in the evaluation of the institution's retail banking services; and 3) have a primary purpose of community development. The FTAA's are a type of financial service, so providing FTAA's clearly are related to the provision of financial services. In addition, FTAA's are not the type of service that would generally be considered in the evaluation of the institution's retail banking services. Thus, whether the FTAA's are a community development service hinges on whether the FTAA's have a primary purpose of community development.

FTAA's may be "community development" services if they involve "financing [small] businesses or farms." Financial

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<sup>2</sup> 12 CFR 25.12(j), 228.12(j), 345.12(j) and 563e.12(i).

<sup>3</sup> 12 CFR 25.12(h)(3), 228.12(h)(3), 345.12(h)(3), and 563e.12(g)(3).

<sup>4</sup> See 12 CFR 25.24(b), 25.25(e)(1), 25.27(f)(1)(i), 228.24(b), 228.25(e)(1), 228.27(f)(1)(i), 345.24(b), 345.25(e)(1), 345.27(f)(1)(i), 563e.24(b), 563e.25(e)(1), and 563e.27(f)(1)(i). See also 12 CFR pt. 25 app. A(d)(2), pt. 228 app. A(d)(2), pt. 345 app. A(d)(2), and pt. 563e app. A(d)(2).

<sup>5</sup> 12 CFR 25.25(e)(2), 228.25(e)(2), 345.25(e)(2), and 563e.25(e)(2).

institutions, in the FTAA arrangements, do not actually provide financing to businesses or farms. However, the FTAA arrangement alleviates the need for the small-business marketer to obtain financing in the form of a letter of credit or payment bond, which would likely be unavailable to the small business because of its lack of equity. Thus, the FTAA arrangement is a financial service that substitutes for direct financing, and, as a credit substitute, it may help to "meet the credit needs" of the community.

Financing small businesses and farms is "community development"<sup>6</sup> if the activity meets both a size test and a purpose test.<sup>7</sup> The size test is met if the marketing businesses on whose behalf the institution acts as agent in the FTAA meet the size eligibility standards in the regulations. Your letter indicates that small businesses assisted by the FTAA's meet the size eligibility standards of 13 CFR 121.301 for both the Small Business Administration's Development Company or Small Business Investment Company programs: "the applicants, including their affiliates, have tangible net worth not in excess of \$6 million and average net income after Federal income taxes (excluding any carryover losses) for the preceding two completed fiscal years of less

than \$2 million." The purpose test is met if the activity promotes economic development. Agency staff have determined that an activity promotes economic development "if it supports permanent job creation, retention, and/or improvement for persons who are currently low- or moderate-income, or supports permanent job creation, retention, and/or improvement in low- or moderate-income geographies, or in areas targeted for redevelopment by Federal, state, local or tribal governments."<sup>8</sup> Therefore, a financial institution that acts as an intermediary pursuant to a FTAA may receive favorable consideration for providing a community development service *as long as* the FTAA's promote economic development by providing financial services that enable small-business marketers to grow, thus necessitating, for example, the hiring of additional employees, including low- and moderate-income individuals.

I trust this letter is responsive to your request. If you have further questions, please contact me or Margaret Hesse, an attorney on my staff, at (202) 874- 5750.

Michael S. Bylsma  
Director, Community and Consumer Law Division

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<sup>6</sup> 12 CFR 25.12(h)(3), 228.12(h)(3), 345.12(h)(3), and 563e.12(g)(3).

<sup>7</sup> See Community Reinvestment Act; Interagency Questions and Answers Regarding Community Reinvestment, 62 Fed. Reg. 52,105, 52,111 (Oct. 6, 1997) (Question and Answer 1 regarding Sections \_\_.12(h)(3) and 563e.12(g)(3)).

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<sup>8</sup> *Id.*



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# Mergers– October 1 to December 31, 1998

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	<i>Page</i>
Nonaffiliated mergers (mergers consummated involving two or more nonaffiliated operating banks) .....	169
Nonaffiliated mergers- thrift (mergers consummated involving nonaffiliated national banks and savings and loan associations) .....	170
Affiliated mergers (mergers consummated involving affiliated operating banks) .....	171
Affiliated mergers- thrift (mergers consummated involving affiliated national banks and savings and loan associations) .....	176



## Mergers— October 1 to December 31, 1998

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 October 1 to December 31, 1998

Title and location (charter number)	Total assets
<b>Alabama</b>	
SouthTrust Bank, National Association, Birmingham (014569) .....	30,714,713,000
and SecurityBank Texas, Arlington .....	81,146,000
merged on October 30, 1998 under the title of <b>SouthTrust Bank, National Association, Birmingham (014569)</b> .....	32,697,604,000
SouthTrust Bank, National Association, Birmingham (014569) .....	30,714,713,000
and First American Bank of Indian River County, Vero Beach .....	45,581,000
merged on December 11, 1998 under the title of <b>SouthTrust Bank, National Association, Birmingham (014569)</b> .....	34,621,032,000
<b>California</b>	
City National Bank, Beverly Hills (014695) .....	5,802,200,000
and North American Trust Company, San Diego .....	6,721,000
merged on December 31, 1998 under the title of <b>City National Bank, Beverly Hills (014695)</b> .....	5,808,921,000
<b>Florida</b>	
Citizens & Peoples Bank, National Association, Cantonment (023416) .....	25,247,000
and Community Bank of Naples, National Association, Naples (023030) .....	78,880,000
merged on December 31, 1998 under the title of <b>Citizens &amp; Peoples Bank, National Association, Cantonment (023416)</b> .....	104,127,000
<b>Illinois</b>	
Illinois One Bank, National Association, Shawneetown (014265) .....	87,779,000
and The First State Bank of Vienna, Vienna .....	39,546,000
merged on October 1, 1998 under the title of <b>Illinois One Bank, National Association, Shawneetown (014265)</b> .....	127,345,000
<b>Kansas</b>	
Citizens Bank of Kansas, National Association, Kingman (003509) .....	105,215,000
and The State Bank, Pretty Prairie .....	11,952,000
merged on October 1, 1998 under the title of <b>Citizens Bank of Kansas, National Association, Kingman (003509)</b> ..	115,332,000
<b>Maryland</b>	
Farmers & Mechanics National Bank, Frederick (001267) .....	844,895,000
and Taneytown Bank & Trust Company, Taneytown .....	296,920,000
merged on November 30, 1998 under the title of <b>Farmers &amp; Mechanics National Bank, Frederick (001267)</b> .....	1,141,815,000
<b>Tennessee</b>	
First American National Bank, Nashville (003032) .....	10,753,991,000
and The Middle Tennessee Bank, Columbia .....	54,998,000
merged on October 1, 1998 under the title of <b>First American National Bank, Nashville (003032)</b> .....	10,808,989,000
First American National Bank, Nashville (003032) .....	10,812,916,000
and Cheatham State Bank, Kingston Springs .....	142,620,000
merged on October 1, 1998 under the title of <b>First American National Bank, Nashville (003032)</b> .....	10,955,536,000
Union Planters Bank, National Association, Memphis (013349) .....	15,693,057,000
and Ready State Bank, Hialeah .....	595,554,000
merged on December 31, 1998 under the title of <b>Union Planters Bank, National Association, Memphis (013349)</b> ..	16,288,611,000

**Nonaffiliated mergers— thrift (mergers consummated involving nonaffiliated national banks  
and savings and loan associations), from October 1 to December 31, 1998**

Title and location (charter number)	Total assets
<b>New Jersey</b>	
Valley National Bank, Passaic (015790) .....	5,062,394,000
and Wayne Savings Bank, F.S.B., Wayne .....	269,580,000
merged on October 16, 1998 under the title of <b>Valley National Bank, Passaic (015790)</b> .....	5,331,974,000

**Affiliated mergers (mergers consummated involving affiliated operating banks),  
from October 1 to December 31, 1998**

Title and location (charter number)	Total assets
<b>Alabama</b>	
SouthTrust Bank, National Association, Birmingham (014569) .....	32,650,391,000
and The Georgia National Bank, Athens (021529) .....	89,183,000
merged on November 23, 1998 under the title of <b>SouthTrust Bank, National Association, Birmingham (014569)</b> ...	32,739,574,000
<b>Alaska</b>	
National Bank of Alaska, Anchorage (014651) .....	2,721,910,000
and Northland Savings Bank, Seattle .....	10,000,000
merged on December 4, 1998 under the title of <b>National Bank of Alaska, Anchorage (014651)</b> .....	2,731,910,000
<b>Arizona</b>	
Norwest Bank Arizona, National Association, Phoenix (015715) .....	4,377,721,000
and Bank of Arizona, Scottsdale .....	225,704,000
merged on December 4, 1998 under the title of <b>Norwest Bank Arizona, National Association, Phoenix (015715)</b> ...	4,603,425,000
<b>California</b>	
First National Bank of Central California, Monterey (018182) .....	572,940,000
and South Valley National Bank, Morgan Hill (017884) .....	230,910,000
merged on October 14, 1998 under the title of <b>First National Bank of Central California, Salinas (018182)</b> .....	803,850,000
Marine National Bank, West Covina (017052) .....	258,644,000
and California State Bank, Covina .....	871,399,000
merged on December 21, 1998 under the title of <b>First Security Bank of California, National Association, West Covina (017052)</b> .....	1,130,043,000
<b>Colorado</b>	
Norwest Bank Colorado, National Association, Denver (003269) .....	8,786,078,000
and Mountain Bank, Eagle .....	84,946,000
merged on November 9, 1998 under the title of <b>Norwest Bank Colorado, National Association, Denver (003269)</b> ...	8,954,293,000
Vectra Bank Colorado, National Association, Denver (023684) .....	1,492,951,000
and Mountain National Bank, Woodland Park (017424) .....	86,705,000
merged on October 30, 1998 under the title of <b>Vectra Bank Colorado, National Association, Denver (023684)</b> .....	1,579,656,000
The First National Bank of Strasburg, Strasburg (011640) .....	117,000,000
and The First National Bank of Castle Rock, Castle Rock (018578) .....	35,000,000
merged on October 24, 1998 under the title of <b>The First National Bank of Strasburg, Strasburg (011640)</b> .....	152,000,000
Vectra Bank Colorado, National Association, Denver (023684) .....	1,579,656,000
and Citizens Bank, Westminster .....	50,088,000
merged on November 30, 1998 under the title of <b>Vectra Bank Colorado, National Association, Denver (023684)</b> ....	1,629,744,000
<b>Florida</b>	
First National Bank of Florida, Clearwater (023498) .....	79,525,000
and Seminole Bank, National Association, Seminole (023638) .....	83,598,000
merged on October 9, 1998 under the title of <b>First National Bank of Florida, Clearwater (023498)</b> .....	163,123,000
First National Bank of Florida, Clearwater (023498) .....	99,896,000
and Citizens Bank & Trust, Clearwater .....	116,879,000
merged on October 9, 1998 under the title of <b>First National Bank of Florida, Clearwater (023498)</b> .....	216,775,000
SunTrust Bank, Tallahassee, National Association, Tallahassee (018089) .....	520,505,000
and Gadsden State Bank, Chattahoochee .....	26,899,000
and Citizens Bank of Marianna, Marianna .....	15,842,000
merged on October 1, 1998 under the title of <b>SunTrust Bank, Tallahassee, National Association, Tallahassee (018089)</b> .....	724,297,000



## Affiliated mergers (continued)

Title and location (charter number)	Total assets
<b>Illinois</b>	
National City Bank of Michigan/Illinois, Bannockburn (000191) .....	15,199,788,000
and First of America Bank- Illinois, National Association, Bannockburn (015594) .....	6,060,843,000
merged on October 31, 1998 under the title of <b>National City Bank of Michigan/Illinois, Bannockburn (000191)</b> .....	19,875,046,000
First Midwest Bank, National Association, McHenry (013660) .....	3,647,565,000
and Heritage Bank, Blue Island .....	1,349,128,000
merged on October 26, 1998 under the title of <b>First Midwest Bank, National Association, McHenry (013660)</b> .....	4,996,693,000
Illinois One Bank, National Association, Shawneetown (014265) .....	124,062,000
and Downstate National Bank, Brookport (006713) .....	21,985,000
merged on October 31, 1998 under the title of <b>Illinois One Bank, National Association, Shawneetown (014265)</b> ....	146,047,000
<b>Indiana</b>	
National City Bank of Indiana, Indianapolis (000869) .....	5,629,438,000
and Old-First National Bank In Bluffton, Bluffton (013305) .....	128,654,000
and Fort Wayne National Bank, Fort Wayne (013818) .....	1,740,075,000
and Churubusco State Bank, Churubusco .....	84,303,000
and First National Bank of Huntington, Huntington (014398) .....	182,419,000
and Valley American Bank and Trust Company, South Bend .....	969,362,000
and First National Bank of Warsaw, Warsaw (014382) .....	326,447,000
and The Auburn State Bank, Auburn .....	136,305,000
merged on November 20, 1998 under the title of <b>National City Bank of Indiana, Indianapolis (000869)</b> .....	12,178,846,000
The National City Bank of Evansville, Evansville (012132) .....	486,530,000
and The Peoples National Bank of Grayville, Grayville (014385) .....	37,758,000
merged on August 7, 1998 under the title of <b>The National City Bank of Evansville, Evansville (012132)</b> .....	524,288,000
The National City Bank of Evansville, Evansville (012132) .....	545,124,000
and Lincolnland Bank, Dale on October 16, 1998 .....	132,316,000
and Alliance Bank, Vincennes on November 13, 1998 .....	118,040,000
and Pike County Bank, Petersburg on November 13, 1998 .....	54,739,000
and Pike County Bank, Petersburg on November 13, 1998 .....	1,000
merged on those respective dates under the title of <b>The National City Bank of Evansville, Evansville (012132)</b> .....	850,220,000
Old National Bank in Evansville, Evansville (012444) .....	2,056,035,000
and Security Bank and Trust Co., Mount Carmel .....	111,937,000
and The Citizens National Bank of Tell City, Tell City (007375) .....	164,727,000
merged on October 23, 1998 under the title of <b>Old National Bank in Evansville, Evansville (012444)</b> .....	2,332,699,000
Old National Bank in Evansville, Evansville (012444) .....	2,277,636,000
and Farmers Bank, National Association, Owensboro (023688) .....	244,653,000
merged on December 11, 1998 under the title of <b>Old National Bank (012444)</b> .....	2,502,289,000
<b>Kansas</b>	
The Peoples National Bank of Clay Center, Clay Center (003345) .....	71,558,000
and Tri-County National Bank, Washington (022304) .....	43,885,000
merged on October 31, 1998 under the title of <b>Peoples National Bank, Clay Center (003345)</b> .....	116,650,000
Commerce Bank, National Association, Wichita (022705) .....	836,413,000
and Fidelity State Bank, Garden City .....	171,102,000
merged on November 24, 1998 under the title of <b>Commerce Bank, National Association, Wichita (022705)</b> .....	1,002,515,000
First National Bank, Goodland (014163) .....	198,168,000
and The First National Bank of Quinter, Quinter (010982) .....	67,695,000
merged on December 10, 1998 under the title of <b>First National Bank, Goodland (014163)</b> .....	265,863,000

## Affiliated mergers (continued)

Title and location (charter number)	Total assets
<b>Kentucky</b>	
First Southern National Bank, Lancaster (001493) .....	67,909,000
and First Southern National Bank, Somerset (002917) .....	143,731,000
and First Southern National Bank of Wayne County, Monticello (022250) .....	49,852,000
and First Southern National Bank of Madison County, Richmond (005132) .....	24,244,000
and First Southern National Bank of the Blue Grass, Lexington (022249) .....	56,934,000
merged on December 17, 1998 under the title of <b>First Southern National Bank, Stanford</b> (001493) .....	339,495,000
Community Trust Bank, National Association, Pikeville (007030) .....	95,786,000
and Community Trust Bank of West Virginia, National Association, Williamson (023644) .....	34,569,000
merged on December 31, 1998 under the title of <b>Community Trust Bank, National Association, Pikeville</b> (007030) .....	134,569,000
<b>Louisiana</b>	
Bank One, Louisiana, National Association, Baton Rouge (013655) .....	5,752,638,000
and First National Bank of Commerce, New Orleans (013689) .....	6,711,784,000
and The First National Bank of Lafayette, Lafayette (005023) .....	845,805,000
and The First National Bank of Lake Charles, Lake Charles (004154) .....	564,197,000
and Central Bank, Monroe .....	1,000
and Rapides Bank & Trust Company In Alexandria, Alexandria .....	535,577,000
merged on November 16, 1998 under the title of <b>Bank One, Louisiana, National Association, Baton Rouge</b> (013655) .....	15,258,583,000
Whitney National Bank, New Orleans (014977) .....	4,625,894,000
and The First National Bank of Greenville, Greenville (005572) .....	117,281,000
merged on December 4, 1998 under the title of <b>Whitney National Bank, New Orleans</b> (014977) .....	4,743,175,000
<b>Maryland</b>	
The First National Bank of Maryland, Baltimore (001413) .....	10,334,681,000
and Dauphin Deposit Bank and Trust Company, Harrisburg .....	6,254,667,000
and The York Bank and Trust Company, York .....	1,043,407,000
merged on November 13, 1998 under the title of <b>The First National Bank of Maryland, Baltimore</b> (001413) .....	17,632,755,000
<b>Minnesota</b>	
Brainerd National Bank, Baxter (015214) .....	33,733,000
and Nisswa State Bank, Nisswa .....	26,877,000
merged on December 7, 1998 under the title of <b>Lakewood Bank, National Association, Baxter</b> (015214) .....	60,353,000
Norwest Bank Minnesota, National Association, Minneapolis (002006) .....	21,958,535,000
and MidAmerica Bank, Newport .....	295,758,000
merged on October 17, 1998 under the title of <b>Norwest Bank Minnesota, National Association, Minneapolis</b> (002006) .....	22,254,293,000
Norwest Bank Minnesota South, National Association, Rochester (002088) .....	2,032,943,000
and MidAmerica Bank South, Mankato .....	110,760,000
merged on October 17, 1998 under the title of <b>Norwest Bank Minnesota South, National Association, Rochester</b> (002088) .....	2,143,703,000
<b>Missouri</b>	
Mercantile Bank National Association, St. Louis (023578) .....	16,681,371,000
and Central Bank, Fairview Heights .....	598,881,000
merged on September 18, 1998 under the title of <b>Mercantile Bank National Association, St. Louis</b> (023578) .....	17,280,252,000
Mercantile Trust Company National Association, St. Louis (022666) .....	3,231,254,000
and First National Bank Iowa, Iowa City (013697) .....	554,587,000
merged on November 13, 1998 under the title of <b>Mercantile Trust Company National Association, St. Louis</b> (022666) .....	3,785,841,000
Mercantile Trust Company National Association, St. Louis (022666) .....	2,730,370,000
and The Rock Island Bank, National Association, Bettendorf (022940) .....	500,884,000
merged on November 13, 1998 under the title of <b>Mercantile Trust Company National Association, St. Louis</b> (022666) .....	3,231,254,000

## Affiliated mergers (continued)

Title and location (charter number)	Total assets
Commerce Bank, National Association, Kansas City (018112) .....	8,353,181,000
and Heritage Bank of Olathe, Olathe .....	52,946,000
merged on November 2, 1998 under the title of <b>Commerce Bank, National Association, Kansas City (018112)</b> .....	8,403,127,000
Mercantile Bank of Memphis National Association, Memphis (023783) .....	62,535,000
and Mercantile Bank of Southeast Missouri, Poplar Bluff .....	1,083,910,000
and Mercantile Bank of South Central Missouri, Springfield .....	1,064,067,000
and Mercantile Bank of North Central Missouri, Macon .....	362,933,000
and Mercantile Bank of Missouri Valley, Richmond .....	100,434,000
and Mercantile Bank of Western Missouri, Joplin .....	670,282,000
and Mercantile Bank National Association, St. Louis (023578) .....	16,639,425,000
and Mercantile Bank of Central Missouri, Washington .....	1,417,215,000
merged on December 11, 1998 under the title of <b>Mercantile Bank National Association, St. Louis (023783)</b> .....	21,400,801,000
<b>Nebraska</b>	
The Security National Bank, Laurel (013182) .....	43,846,000
and Osmond State Bank, Osmond .....	32,163,000
merged on November 2, 1998 under the title of <b>The Security National Bank, Laurel (013182)</b> .....	76,009,000
Midwest Bank National Association, Pierce (023797) .....	44,028,000
and The American National Bank of Creighton, Creighton (013591) .....	60,956,000
and The Nebraska Security Bank, Deshler .....	27,941,000
and The Farmers National Bank in Pilger, Pilger (013453) .....	25,350,000
and Plainview National Bank, Plainview (015248) .....	47,018,000
merged on December 30, 1998 under the title of <b>Midwest Bank National Association, Pierce (023797)</b> .....	205,293,000
<b>Nevada</b>	
Household Bank (Nevada), National Association, Las Vegas (018818) .....	4,064,691,000
and Household Bank (Illinois), National Association, Prospect Heights (018767) .....	2,269,000
merged on December 31, 1998 under the title of <b>Household Bank (Nevada), National Association, Las Vegas (018818)</b> .....	4,066,187,000
<b>New Jersey</b>	
Equity Bank, National Association, Marlton (012617) .....	207,284,000
and Farmers National Bank of Mullica Hill, Mullica Hill (006728) .....	87,723,000
merged on October 1, 1998 under the title of <b>Equity Bank, National Association, Marlton (012617)</b> .....	295,007,000
<b>New Mexico</b>	
Norwest Bank New Mexico, National Association, Albuquerque (006187) .....	2,487,427,000
and The Bank of New Mexico, Albuquerque .....	393,747,000
merged on November 21, 1998 under the title of <b>Norwest Bank New Mexico, National Association, Albuquerque (006187)</b> .....	2,881,174,000
Centennial Bank, National Association, Farmington (023795) .....	54,673,000
and Vectra Bank Colorado, National Association, Denver (023684) .....	1,926,053,000
merged on December 31, 1998 under the title of <b>Vectra Bank Colorado, National Association, Farmington (023849)</b> .....	1,980,836,000
<b>North Carolina</b>	
NationsBank, National Association, Charlotte (014448) .....	236,844,847,000
and Barnett Bank, National Association, Jacksonville (009049) .....	46,340,553,000
and Community Bank of the Islands, Sanibel .....	100,833,000
merged on October 8, 1998 under the title of <b>NationsBank, National Association, Charlotte (014448)</b> .....	272,737,042,000
NationsBank, National Association (014448) .....	270,412,797,000
and NationsBank of Tennessee, National Association, Nashville (022567) .....	6,355,173,000
merged on November 12, 1998 under the title of <b>NationsBank, National Association, Charlotte (014448)</b> .....	265,252,996,000

## Affiliated mergers (continued)

Title and location (charter number)	Total assets
<b>North Dakota</b>	
Norwest Bank North Dakota, National Association, Fargo (002377) .....	1,354,289,000
and First National Bank of Valley City, Valley City (013324) .....	53,501,000
and The First State Bank of Casselton, Casselton .....	33,343,000
and Litchville State Bank, Litchville .....	13,436,000
merged on October 24, 1998 under the title of <b>Norwest Bank North Dakota, National Association, Fargo (002377)</b> ...	1,454,569,000
<b>Ohio</b>	
Bank One Trust Company, National Association, Columbus (016235) .....	1,086,119,000
and City National Bank of Baton Rouge, Baton Rouge (013737) .....	104,483,000
merged on November 16, 1998 under the title of <b>Bank One Trust Company, National Association, Columbus (016235)</b> ...	1,190,602,000
Star Bank, National Association, Cincinnati (000024) .....	14,812,780,000
and Trans Financial Bank, National Association, Bowling Green (022833) .....	1,703,699,000
and Trans Financial Bank Tennessee, National Association, Cookeville (022774) .....	532,447,000
merged on August 21, 1998 under the title of <b>Star Bank, National Association, Cincinnati (000024)</b> .....	16,914,801,000
<b>Tennessee</b>	
First Tennessee Bank National Association, Memphis (000336) .....	14,983,371,000
and First Tennessee Bank National Association Mississippi, Southaven (022494) .....	78,695,000
merged on December 18, 1998 under the title of <b>First Tennessee Bank National Association, Memphis (000336)</b> ...	15,036,389,000
First American National Bank, Nashville (003032) .....	10,531,366,000
and Pioneer Bank, Chattanooga .....	747,708,000
merged on November 20, 1998 under the title of <b>First American National Bank, Nashville (003032)</b> .....	11,279,074,000
First American National Bank, Nashville (003032) .....	10,531,366,000
and Valley Bank, Sweetwater .....	190,597,000
merged on November 20, 1998 under the title of <b>First American National Bank, Nashville (003032)</b> .....	107,721,963,000
Union Planters Bank, National Association, Memphis (013349) .....	15,684,563,000
and Magna Bank, National Association, Brentwood (023001) .....	7,218,374,000
merged on October 9, 1998 under the title of <b>Union Planters Bank, National Association, Memphis (013349)</b> .....	27,637,174,000
<b>Texas</b>	
Norwest Bank Texas, National Association, San Antonio (014208) .....	8,512,168,000
and First State Bank, Austin .....	597,936,000
merged on November 14, 1998 under the title of <b>Norwest Bank Texas, National Association, San Antonio (014208)</b> ...	9,110,104,000
Citizens National Bank, Henderson (013443) .....	350,273,000
and Jefferson National Bank, Jefferson (018060) .....	36,103,000
merged on December 11, 1998 under the title of <b>Citizens National Bank, Henderson (013443)</b> .....	386,376,000
<b>West Virginia</b>	
United National Bank, Parkersburg (001427) .....	2,419,407,000
and Fed One Bank, Wheeling .....	367,667,000
merged on October 17, 1998 under the title of <b>United National Bank, Parkersburg (001427)</b> .....	2,851,949,000
<b>Wisconsin</b>	
Eagle Valley Bank, National Association, St. Croix Falls (011526) .....	53,124,000,000
and State Bank of Dennison, Dennison .....	10,434,000,000
merged on October 1, 1998 under the title of <b>Eagle Valley Bank, National Association, St. Croix Falls (011526)</b> ...	63,498,000,000
Norwest Bank Wisconsin, National Association, Milwaukee (015057) .....	1,684,877,000
and MidAmerica Bank North, Phillips .....	97,229,000
and MidAmerica Bank, Dodgeville .....	85,931,000
merged on November 7, 1998 under the title of <b>Norwest Bank Wisconsin, National Association, Milwaukee (015057)</b> ...	1,868,037,000

**Affiliated mergers– thrift (mergers consummated involving affiliated national banks  
and savings and loan associations), from October 1 to December 31, 1998**

Title and location (charter number)	Total assets
<b>Ohio</b>	
FirstMerit Bank, National Association, Akron (014579) .....	4,612,198,000
and Security Federal Savings & Loan Association of Cleveland, Mayfield Heights .....	569,860,000
and First Federal Savings Bank of Kent, Kent.....	93,182,000
merged on October 23, 1998 under the title of <b>FirstMerit Bank, National Association, Akron (014579)</b> .....	5,275,240,000

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# Tables on the Corporate Structure of the National Banking System

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Page

## Annual Merger Tables:

Annual summary of nonaffiliated mergers (mergers consummated involving two or more nonaffiliated operating banks), January 1 to December 31, 1998 .....	179
Annual summary of nonaffiliated mergers- thrift (mergers consummated involving nonaffiliated national banks and savings and loan associations), January 1 to December 31, 1998 .....	182
Annual summary of affiliated mergers (mergers consummated involving affiliated operating banks), January 1 to December 31, 1998 .....	183
Annual summary of affiliated mergers- thrift (mergers consummated involving affiliated national banks and savings and loan associations), January 1 to December 31, 1998 .....	197

## Semiannual Tables:

Changes in the corporate structure of the national banking system, by state, July 1 to December 31, 1998 .....	198
Applications for new, full-service national bank charters, approved and denied, by state, July 1 to December 31, 1998 .....	199
Applications for new, limited-purpose national bank charters, approved and denied, by state, July 1 to December 31, 1998 .....	201
New, full-service national bank charters issued, July 1 to December 31, 1998 .....	202
New, limited-purpose national bank charters issued, July 1 to December 31, 1998 .....	203
State-chartered banks converted to full-service national banks, July 1 to December 31, 1998 .....	204
Other institution converted to limited-purpose national bank, July 1 to December 31, 1998 .....	205
National banks merged out of the national banking system, July 1 to December 31, 1998 .....	206
National banks converted out of the national banking system, July 1 to December 31, 1998 .....	208
Federal branches and agencies of foreign banks in operation, July 1 to December 31, 1998 .....	209



**Annual summary of nonaffiliated mergers (mergers consummated involving two or more nonaffiliated operating banks), from January 1 to December 31, 1998**

Title and location (charter number)	Total assets
<b>Alabama</b>	
SouthTrust Bank, National Association, Birmingham (014569) .....	30,714,713,000
and American National Bank of Florida, Jacksonville (014464) .....	540,660,000
merged on June 19, 1998 under the title of <b>SouthTrust Bank, National Association, Birmingham (014569)</b> .....	31,255,373,000
SouthTrust Bank, National Association, Birmingham (014569) .....	30,714,713,000
and SecurityBank Texas, Arlington .....	81,146,000
merged on October 30, 1998 under the title of <b>SouthTrust Bank, National Association, Birmingham (014569)</b> .....	32,697,604,000
SouthTrust Bank, National Association, Birmingham (014569) .....	30,714,713,000
and First American Bank of Indian River County, Vero Beach .....	45,581,000
merged on December 11, 1998 under the title of <b>SouthTrust Bank, National Association, Birmingham (014569)</b> ....	34,621,032,000
<b>California</b>	
The Pacific Bank, National Association, San Francisco (017917) .....	603,364,000
and Sterling Bank, Los Angeles .....	101,662,000
merged on July 3, 1998 under the title of <b>The Pacific Bank, National Association, San Francisco (017917)</b> .....	700,413,000
City National Bank, Beverly Hills (014695) .....	5,802,200,000
and North American Trust Company, San Diego .....	6,721,000
merged on December 31, 1998 under the title of <b>City National Bank, Beverly Hills (014695)</b> .....	5,808,921,000
<b>Colorado</b>	
Vectra Bank Colorado, National Association, Denver (023684) .....	305,391,000
and First National Bank of Colorado, Steamboat Springs (018436) .....	92,841,000
merged on May 29, 1998 under the title of <b>Vectra Bank Colorado, National Association, Denver (023684)</b> .....	398,232,000
Vectra Bank Colorado, National Association, Denver (023684) .....	1,307,853,000
and Independent Bank, Kersey .....	144,313,000
merged on August 28, 1998 under the title of <b>Vectra Bank Colorado, National Association, Denver (023684)</b> .....	1,452,166,000
Vectra Bank Colorado, National Association, Denver (023684) .....	1,452,166,000
and Eagle Bank, Broomfield .....	40,785,000
merged on August 31, 1998 under the title of <b>Vectra Bank Colorado, National Association, Denver (023684)</b> .....	1,492,951,000
<b>Florida</b>	
Citizens & Peoples Bank, National Association, Cantonment (023416) .....	25,247,000
and Community Bank of Naples, National Association, Naples (023030) .....	78,880,000
merged on December 31, 1998 under the title of <b>Citizens &amp; Peoples Bank, National Association, Cantonment (023416)</b> .....	104,127,000
<b>Georgia</b>	
The Summit National Bank, DeKalb County (021484) .....	152,079,000
and California Security Bank, San Jose .....	100,000
merged on June 30, 1998 under the title of <b>The Summit National Bank, Atlanta (021484)</b> .....	152,079,000
<b>Illinois</b>	
First National Bank in Olney, Olney (014217) .....	138,515,000
and Mt. Erie State Bank, Mount Erie .....	15,281,000
merged on May 15, 1998 under the title of <b>First National Bank in Olney, Olney (014217)</b> .....	153,796,000
Illinois One Bank, National Association, Shawneetown (014265) .....	87,779,000
and the First State Bank of Vienna, Vienna .....	39,546,000
merged on October 1, 1998 under the title of <b>Illinois One Bank, National Association, Shawneetown (014265)</b> .....	127,345,000
<b>Kansas</b>	
Citizens Bank of Kansas, National Association, Kingman (003509) .....	105,215,000
and The State Bank, Pretty Prairie .....	11,952,000
merged on October 1, 1998 under the title of <b>Citizens Bank of Kansas, National Association, Kingman (003509)</b> .....	115,332,000



## Annual summary of nonaffiliated mergers (continued)

Title and location (charter number)	Total assets
<b>Louisiana</b>	
Hibernia National Bank, New Orleans (013688) .....	9,335,638,000
and Argentbank, Thibodaux .....	759,610,000
merged on February 1, 1998 under the title of <b>Hibernia National Bank, New Orleans (013688)</b> .....	10,095,248,000
Whitney National Bank, New Orleans (014977) .....	3,737,194,000
and Louisiana National Security Bank, Donaldsonville (014281) .....	104,507,000
merged on May 16, 1998 under the title of <b>Whitney National Bank, New Orleans (014977)</b> .....	3,841,701,000
<b>Maryland</b>	
Farmers & Mechanics National Bank, Frederick (001267) .....	844,895,000
and Taneytown Bank & Trust Company, Taneytown .....	296,920,000
merged on November 30, 1998 under the title of <b>Farmers &amp; Mechanics National Bank, Frederick (001267)</b> .....	1,141,815,000
<b>Mississippi</b>	
Trustmark National Bank, Jackson (010523) .....	52,989,000
and Smith County Bank, Taylorsville .....	96,889,000
merged on March 14, 1998 under the title of <b>Trustmark National Bank, Jackson (010523)</b> .....	67,461,000
<b>Missouri</b>	
First National Bank of St. Louis, Clayton (012333) .....	514,586,000
and Colonial Bank, Des Peres .....	226,829,000
merged on September 11, 1998 under the title of <b>First National Bank of St. Louis, Clayton (012333)</b> .....	774,472,000
<b>New Jersey</b>	
United National Bank, Bridgewater (005621) .....	1,337,350,000
and State Bank of South Orange, South Orange .....	75,235,000
merged on September 30, 1998 under the title of <b>United National Bank, Bridgewater (005621)</b> .....	1,412,585,000
<b>Ohio</b>	
Star Bank, National Association, Cincinnati (000024) .....	14,812,780,000
and Trans Financial Bank, National Association, Bowling Green (022833) .....	1,703,699,000
and Trans Financial Bank Tennessee, National Association, Cookeville (022774) .....	532,447,000
merged on August 21, 1998 under the title of <b>Star Bank, National Association, Cincinnati (000024)</b> .....	16,914,801,000
<b>Oklahoma</b>	
The First National Bank and Trust Company of Miami, Miami (005252) .....	73,439,000
and Bank of Miami, Miami .....	19,698,000
merged on February 27, 1998 under the title of <b>The First National Bank and Trust Company of Miami, Miami (005252)</b> .....	93,966,000
<b>Pennsylvania</b>	
First Union National Bank, Avondale (022693) .....	27,577,093,000
and Covenant Bank, Haddonfield .....	453,971,000
merged on January 16, 1998 under the title of <b>First Union National Bank, Avondale (022693)</b> .....	28,009,148,000
<b>Tennessee</b>	
First American National Bank, Nashville (003032) .....	10,753,991,000
and The Middle Tennessee Bank, Columbia .....	54,998,000
merged on October 1, 1998 under the title of <b>First American National Bank, Nashville (003032)</b> .....	10,808,989,000
Union Planters Bank, National Association (013349) .....	15,785,873,000
and TransFlorida Bank, Boca Raton .....	317,851,000
merged on August 31, 1998 under the title of <b>Union Planters Bank, National Association, Memphis (013349)</b> .....	16,103,724,000
First American National Bank, Nashville (003032) .....	10,812,916,000
and Cheatham State Bank, Kingston Springs .....	142,620,000
merged on October 1, 1998 under the title of <b>First American National Bank, Nashville (003032)</b> .....	10,955,536,000

### Annual summary of nonaffiliated mergers (continued)

Title and location (charter number)	Total assets
Union Planters Bank, National Association, Memphis (013349) .....	15,693,057,000
and Ready State Bank, Hialeah .....	595,554,000
merged on December 31, 1998 under the title of <b>Union Planters Bank, National Association, Memphis (013349)</b> .....	16,288,611,000
<b>Texas</b>	
The Herring National Bank, Vernon (007010) .....	147,812,000
and BFN Trust Company, National Association, Amarillo (023500) .....	200,000
merged on January 1, 1998 under the title of <b>The Herring National Bank, Vernon (007010)</b> .....	148,012,000
The American National Bank of Texas, Terrell (017043) .....	518,411,000
and The First National Bank of Wills Point, Wills Point (005018) .....	32,660,000
merged on January 1, 1998 under the title of <b>The American National Bank of Texas, Terrell (017043)</b> .....	548,216,000
Surety Bank, National Association, Hurst (015187) .....	176,831,000
and Texstar National Bank, Universal City (018548) .....	73,635,000
merged on April 1, 1998 under the title of <b>Surety Bank, National Association, Hurst (015187)</b> .....	250,866,000
The First National Bank of Livingston, Livingston (006169) .....	145,561,000
and The Bank of Livingston, Livingston .....	52,377,000
merged on September 11, 1998 under the title of <b>The First National Bank of Livingston, Livingston (006169)</b> .....	197,970,000

**Annual summary of nonaffiliated mergers— thrift (mergers consummated involving nonaffiliated national banks and savings and loan associations), from January 1 to December 31, 1998**

Title and location (charter number)	Total assets
<b>Louisiana</b>	
Whitney National Bank, New Orleans (014977) .....	3,623,194,000
and Meritrust Federal Savings Bank, Thibodaux .....	233,311,000
merged on April 24, 1998 under the title of <b>Whitney National Bank, New Orleans (014977)</b> .....	3,856,505,000
<b>Missouri</b>	
South Side National Bank in St. Louis, St. Louis (014128) .....	353,316,000
and Public Service Bank, A Federal Savings Bank, St. Louis .....	70,470,000
merged on June 29, 1998 under the title of <b>South Side National Bank in St. Louis, St. Louis (014128)</b> .....	424,409,000
<b>New Jersey</b>	
Valley National Bank, Passaic (015790) .....	5,062,394,000
and Wayne Savings Bank, F.S.B., Wayne .....	269,580,000
merged on October 16, 1998 under the title of <b>Valley National Bank, Passaic (015790)</b> .....	5,331,974,000
<b>Pennsylvania</b>	
The Farmers National Bank of Emlenton, Emlenton (005481) .....	133,948,000
and Peoples Savings Bank, Ridgway .....	44,515,000
merged on August 31, 1998 under the title of <b>The Farmers National Bank of Emlenton (005481)</b> .....	181,489,000

**Annual summary of affiliated mergers (mergers consummated involving affiliated operating banks),  
from January 1 to December 31, 1998**

Title and location (charter number)	Total assets
<b>Alabama</b>	
SouthTrust Bank, National Association, Birmingham (014569) .....	29,081,728,000
and SouthTrust Asset Management Company of the Carolinas, Inc., Charlotte .....	3,023,000
merged on June 30, 1998 under the title of <b>SouthTrust Bank, National Association, Birmingham (014569)</b> .....	29,084,751,000
SouthTrust Bank, National Association, Birmingham (014569) .....	29,081,737,000
and SouthTrust Asset Management Company of Georgia, National Association, Atlanta (022542) .....	2,149,000
merged on June 30, 1998 under the title of <b>SouthTrust Bank, National Association, Birmingham (014569)</b> .....	30,714,704,000
SouthTrust Bank, National Association, Birmingham (014569) .....	30,714,704,000
and SouthTrust Asset Management Company of Florida, National Association, St. Petersburg (023027) .....	3,052,000,000
merged on June 30, 1998 under the title of <b>SouthTrust Bank, National Association, Birmingham (014569)</b> .....	33,766,704,000
SouthTrust Bank, National Association, Birmingham (014569) .....	30,714,713,000
and Marine Bank, St. Petersburg .....	58,499,000
merged on August 7, 1998 under the title of <b>SouthTrust Bank, National Association, Birmingham (014569)</b> .....	31,313,872,000
SouthTrust Bank, National Association, Birmingham (014569) .....	32,650,391,000
and The Georgia National Bank, Athens (021529) .....	89,183,000
merged on November 23, 1998 under the title of <b>SouthTrust Bank, National Association, Birmingham (014569)</b> .....	32,739,574,000
<b>Alaska</b>	
National Bank of Alaska, Anchorage (014651) .....	2,721,910,000
and Northland Savings Bank, Seattle .....	10,000,000
merged on December 4, 1998 under the title of <b>National Bank of Alaska, Anchorage (014651)</b> .....	2,731,910,000
<b>Arizona</b>	
Norwest Bank Arizona, National Association, Phoenix (015715) .....	4,377,721,000
and Bank of Arizona, Scottsdale .....	225,704,000
merged on November 21, 1998 under the title of <b>Norwest Bank Arizona, National Association, Phoenix (015715)</b> .....	4,603,425,000
<b>California</b>	
City National Bank, Beverly Hills (014695) .....	4,651,527,000
and Harbor Bank, Long Beach .....	204,000,000
merged on January 9, 1998 under the title of <b>City National Bank, Beverly Hills (014695)</b> .....	5,100,000,000
U.S. Trust Company of the Pacific Northwest Interim National Bank, Portland (023661) .....	240,000
and U.S. Trust Company of the Pacific Northwest, Portland .....	4,066,000
and U.S. Trust Company, National Association, Los Angeles (022413) .....	314,863,000
merged on June 22, 1998 under the title of <b>U.S. Trust Company, National Association, Los Angeles (022413)</b> .....	319,169,000
Pacific Century Bank, National Association, Los Angeles (018152) .....	552,571,000
and California United Bank, Los Angeles .....	778,428,000
merged on August 14, 1998 under the title of <b>Pacific Century Bank, National Association, Los Angeles (018152)</b> .....	1,331,999,000
First National Bank of Central California, Monterey (018182) .....	572,940,000
and South Valley National Bank, Morgan Hill (017884) .....	230,910,000
merged on October 14, 1998 under the title of <b>First National Bank of Central California, Salinas (018182)</b> .....	803,850,000
Marine National Bank, West Covina (017052) .....	258,644,000
and California State Bank, Covina .....	871,399,000
merged on December 21, 1998 under the title of <b>First Security Bank of California, National Association, West Covina (017052)</b> .....	1,130,043,000
<b>Colorado</b>	
The First National Bank in Alamosa, Alamosa (007904) .....	120,145,000
and Valley National Bank of Cortez, Cortez (016808) .....	92,262,000
merged on January 23, 1998 under the title of <b>Bank Colorado, National Association, Cortez (007904)</b> .....	212,407,000

## Annual summary of affiliated mergers (continued)

Title and location (charter number)	Total assets
Bank Colorado, National Association, Denver (007904) .....	92,262,000
and Tri-State Bank, Denver .....	122,905,000
merged on February 27, 1998 under the title of <b>Bank Colorado, National Association, Denver (007904)</b> .....	215,167,000
Community First National Bank, Fort Morgan (007004) .....	1,243,476,000
and Community First National Bank, Gunnison (002686) .....	95,817,000
merged on May 3, 1998 under the title of <b>Community First National Bank, Fort Morgan (007004)</b> .....	1,339,293,000
Vectra Bank Colorado, National Association, Denver (007904) .....	217,445,000
and State Bank and Trust of Colorado Springs, Colorado Springs .....	87,946,000
merged on May 29, 1998 under the title of <b>Vectra Bank Colorado, National Association, Denver (023684)</b> .....	305,391,000
Vectra Bank Colorado, National Association, Denver (007904) .....	398,232,000
and Vectra Bank, Denver .....	726,932,000
merged on May 28, 1998 under the title of <b>Vectra Bank Colorado, National Association, Denver (007904)</b> .....	1,125,164,000
Community First National Bank, Fort Morgan (007004) .....	1,339,293,000
and Community First National Bank, Thornton (017379) .....	77,598,000
and Community First National Bank, Longmont (023619) .....	130,412,000
and Community First National Bank, Greeley (017478) .....	75,645,000
and Poudre Valley Bank, Fort Collins .....	41,798,000
merged on July 1, 1998 under the title of <b>Community First National Bank, Fort Morgan (007004)</b> .....	1,664,744,000
Norwest Bank Colorado, National Association, Denver (003269) .....	8,495,457,000
and Heritage Trust Company, Grand Junction .....	966,000
merged on August 3, 1998 under the title of <b>Norwest Bank Colorado, National Association, Denver (003269)</b> .....	8,495,457,000
Norwest Bank Colorado, National Association, Denver (003269) .....	8,744,292,000
and The Bank of the Southwest, National Association, Pagosa Springs (017645) .....	79,011,000
merged on August 10, 1998 under the title of <b>Norwest Bank Colorado, National Association, Denver (003269)</b> .....	8,823,303,000
Norwest Bank Colorado, National Association, Denver (003269) .....	8,786,078,000
and Mountain Bank, Eagle .....	84,946,000
merged on November 9, 1998 under the title of <b>Norwest Bank Colorado, National Association, Denver (003269)</b> .....	8,954,293,000
Vectra Bank Colorado, National Association, Denver (023684) .....	1,125,164,000
and Pitkin County Bank and Trust Company, Aspen .....	182,689,000
merged on September 11, 1998 under the title of <b>Vectra Bank Colorado, National Association, Denver (023684)</b> .....	1,307,853,000
Vectra Bank Colorado, National Association, Denver (023684) .....	1,492,951,000
and Mountain National Bank, Woodland Park (017424) .....	86,705,000
merged on October 30, 1998 under the title of <b>Vectra Bank Colorado, National Association, Denver (023684)</b> .....	1,579,656,000
The First National Bank of Strasburg, Strasburg (011640) .....	117,000,000
and The First National Bank of Castle Rock, Castle Rock (018578) .....	35,000,000
merged on October 24, 1998 under the title of <b>The First National Bank of Strasburg, Strasburg (011640)</b> .....	152,000,000
Vectra Bank Colorado, National Association, Denver (023684) .....	1,579,656,000
and Citizens Bank, Westminster .....	50,088,000
merged on November 30, 1998 under the title of <b>Vectra Bank Colorado, National Association, Denver (023684)</b> .....	1,629,744,000
<b>Delaware</b>	
CoreStates Bank of Delaware National Association, Wilmington (018011) .....	2,086,348,000
and CoreStates Delaware, National Association, Wilmington (022872) .....	4,555,000
merged on January 1, 1998 under the title of <b>CoreStates Bank of Delaware National Association, Wilmington (018011)</b> .....	2,090,903,000

## Annual summary of affiliated mergers (continued)

Title and location (charter number)	Total assets
<b>Florida</b>	
Big Lake National Bank, Okeechobee (020494) .....	64,046,000
and Clewiston National Bank, Clewiston (016321) .....	47,420,000
merged on May 1, 1998 under the title of <b>Big Lake National Bank, Okeechobee (020494)</b> .....	111,004,000
First National Bank of Florida, Clearwater (023498) .....	79,525,000
and Seminole Bank, National Association, Seminole (023638) .....	83,598,000
merged on October 9, 1998 under the title of <b>First National Bank of Florida, Clearwater (023498)</b> .....	163,123,000
First National Bank of Florida, Clearwater (023498) .....	99,896,000
and Citizens Bank & Trust, Clearwater .....	116,879,000
merged on October 9, 1998 under the title of <b>First National Bank of Florida, Clearwater (023498)</b> .....	216,775,000
SunTrust Bank, Tallahassee, National Association, Tallahassee (018089) .....	520,505,000
and Gadsden State Bank, Chattahoochee .....	26,899,000
and Citizens Bank of Marianna, Marianna .....	15,842,000
merged on October 1, 1998 under the title of <b>SunTrust Bank, Tallahassee, National Association, Tallahassee (018089)</b> .....	724,297,000
<b>Georgia</b>	
Pinnacle Bank, National Association, Elberton (014061) .....	140,448,000
and Pinnacle Bank, Royston .....	95,675,000
merged on January 1, 1998 under the title of <b>Pinnacle Bank, National Association, Elberton (014061)</b> .....	236,509,000
<b>Illinois</b>	
First Midwest Bank, National Association, McHenry (013660) .....	3,096,671,000
and McHenry State Bank, McHenry .....	438,084,000
merged on February 23, 1998 under the title of <b>First Midwest Bank, National Association, McHenry (013660)</b> .....	3,534,755,000
LaSalle National Bank, Chicago (014362) .....	15,383,920,000
and LaSalle Bank NI, Chicago .....	2,173,299,000
merged on February 2, 1998 under the title of <b>LaSalle National Bank, Chicago (014362)</b> .....	17,540,983,000
First National Bank of Joliet, Joliet (013705) .....	554,803,000
and Southwest Suburban Bank, Bolingbrook .....	45,798,000
and Bank of Lockport, Lockport .....	99,532,000
and Community Bank of Plano, Plano .....	69,889,000
merged on March 14, 1998 under the title of <b>First National Bank of Joliet, Joliet (013705)</b> .....	770,022,000
National City Bank of Michigan/Illinois, Bannockburn (000191) .....	15,199,788,000
and First of America Bank- Illinois, National Association, Bannockburn (015594) .....	6,060,843,000
merged on October 31, 1998 under the title of <b>National City Bank of Michigan/Illinois, Bannockburn (000191)</b> .....	19,875,046,000
The First National Bank of Wayne City, Wayne City (010460) .....	49,736,000
and Bank of Illinois in Mt. Vernon, Mount Vernon .....	163,505,000
merged on August 21, 1998 under the title of <b>Bank of Illinois, National Association, Mt. Vernon (010460)</b> .....	225,595,000
First Midwest Bank, National Association, McHenry (013660) .....	3,647,565,000
and Heritage Bank, Blue Island .....	1,349,128,000
merged on October 26, 1998 under the title of <b>First Midwest Bank, National Association, McHenry (013660)</b> .....	4,996,693,000
Illinois One Bank, National Association, Shawneetown (014265) .....	124,062,000
and Downstate National Bank, Brookport (006713) .....	21,985,000
merged on October 31, 1998 under the title of <b>Illinois One Bank, National Association, Shawneetown (014265)</b> .....	146,047,000
<b>Indiana</b>	
First National Bank, Kokomo (014519) .....	659,330,000
and First Bank and Trust, Sullivan .....	232,500,000
merged on March 16, 1998 under the title of <b>First National Bank &amp; Trust, Kokomo (014519)</b> .....	891,830,000

## Annual summary of affiliated mergers (continued)

Title and location (charter number)	Total assets
Old National Bank in Evansville, Evansville (012444) .....	1,783,291,000
and The National Bank of Carmi, Carmi (005357) .....	64,099,000
merged on April 17, 1998 under the title of <b>Old National Bank in Evansville, Evansville (012444)</b> .....	1,847,390,000
National City Bank of Indiana, Indianapolis (000869) .....	5,629,438,000
and Old-First National Bank in Bluffton, Bluffton (013305) .....	128,654,000
and Fort Wayne National Bank, Fort Wayne (013818) .....	1,740,075,000
and Churubusco State Bank, Churubusco .....	84,303,000
and First National Bank of Huntington, Huntington (014398) .....	182,419,000
and Valley American Bank and Trust Company, South Bend .....	969,362,000
and First National Bank of Warsaw, Warsaw (014382) .....	326,447,000
and The Auburn State Bank, Auburn .....	136,305,000
merged on November 20, 1998 under the title of <b>National City Bank of Indiana, Indianapolis (000869)</b> .....	12,178,846,000
The National City Bank of Evansville, Evansville (012132) .....	486,530,000
and The Peoples National Bank of Grayville, Grayville (014385) .....	37,758,000
merged on August 7, 1998 under the title of <b>The National City Bank of Evansville, Evansville (012132)</b> .....	524,288,000
The National City Bank of Evansville, Evansville (012132) .....	545,124,000
and Lincolnland Bank, Dale on October 16, 1998 .....	132,316,000
and Alliance Bank, Vincennes on November 13, 1998 .....	118,040,000
and Pike County Bank, Petersburg on November 13, 1998 .....	54,739,000
and Pike County Bank, Petersburg on November 13, 1998 .....	1,000
merged on those respective dates under the title of <b>The National City Bank of Evansville, Evansville (012132)</b> .....	850,220,000
Old National Bank in Evansville, Evansville (012444) .....	2,056,035,000
and Security Bank and Trust Co., Mount Carmel .....	111,937,000
and The Citizens National Bank of Tell City, Tell City (007375) .....	164,727,000
merged on October 23, 1998 under the title of <b>Old National Bank in Evansville, Evansville (012444)</b> .....	2,332,699,000
Old National Bank in Evansville, Evansville (012444) .....	2,277,636,000
and Farmers Bank, National Association, Owensboro (023688) .....	244,653,000
merged on December 11, 1998 under the title of <b>Old National Bank (012444)</b> .....	2,502,289,000
<b>Iowa</b>	
Magna Bank, National Association, Waterloo (013702) .....	660,627,000
and Magna Interim Bank- Waterloo, National Association, Waterloo (023427) .....	103,199,000
and Magna Interim Bank- Des Moines, National Association, Des Moines (023428) .....	220,518,000
and Magna Bank, Indianola .....	143,086,000
and Magna Bank, Monticello .....	149,205,000
and Magna Bank, Oelwein .....	99,677,000
and Magna Interim- Cedar Rapids, National Association, Cedar Rapids (023423) .....	8,460,000
and Magna Interim Bank- Decorah, National Association, Decorah (023424) .....	25,939,000
and Magna Interim Bank- Iowa City, National Association, Iowa City (023425) .....	39,842,000
and Magna Interim Bank- Vinton, National Association, Vinton (023426) .....	26,606,000
merged on July 18, 1997 under the title of <b>Magna Bank, National Association, Waterloo (013702)</b> .....	1,318,795,000
Bank Iowa, National Association, Red Oak (005738) .....	46,092,000
and The Security Trust and Savings Bank, Shenandoah .....	36,767,000
merged on June 1, 1998 under the title of <b>Bank Iowa, National Association, Red Oak (005738)</b> .....	81,100,000
<b>Kansas</b>	
Western National Bank, Lenexa (022906) .....	21,208,000
and The Peoples National Bank and Trust Company of Burlington, Burlington (003170) .....	53,135,000
merged on July 28, 1998 under the title of <b>Western National Bank, Lenexa (022906)</b> .....	74,397,000
The Peoples National Bank of Clay Center, Clay Center (003345) .....	71,558,000
and Tri-County National Bank, Washington (022304) .....	43,885,000
merged on October 31, 1998 under the title of <b>Peoples National Bank, Clay Center (003345)</b> .....	116,650,000

## Annual summary of affiliated mergers (continued)

Title and location (charter number)	Total assets
Commerce Bank, National Association, Wichita (022705) .....	836,413,000
and Fidelity State Bank, Garden City .....	171,102,000
merged on November 24, 1998 under the title of <b>Commerce Bank, National Association, Wichita (022705)</b> .....	1,002,515,000
First National Bank, Goodland (014163) .....	198,168,000
and The First National Bank of Quinter, Quinter (010982) .....	67,695,000
merged on December 10, 1998 under the title of <b>First National Bank, Goodland (014163)</b> .....	265,863,000
<b>Kentucky</b>	
The Anderson National Bank of Lawrenceburg, Lexington (008604) .....	93,008,000
and Farmers Bank, Owingsville .....	39,106,000
merged on January 1, 1998 under the title of <b>The Progressive Bank, National Association, Lexington (008604)</b> .....	132,114,000
First Southern National Bank, Lancaster (001493) .....	67,909,000
and First Southern National Bank, Somerset (002917) .....	143,731,000
and First Southern National Bank of Wayne County, Monticello (022250) .....	49,852,000
and First Southern National Bank of Madison County, Richmond (005132) .....	24,244,000
and First Southern National Bank of the Blue Grass, Lexington (022249) .....	56,934,000
merged on December 17, 1998 under the title of <b>First Southern National Bank, Stanford (001493)</b> .....	339,495,000
Community Trust Bank, National Association, Pikeville (007030) .....	95,786,000
and Community Trust Bank of West Virginia, National Association, Williamson (023644) .....	34,569,000
merged on December 31, 1998 under the title of <b>Community Trust Bank, National Association, Pikeville (007030)</b> .....	134,569,000
<b>Louisiana</b>	
Hibernia National Bank, New Orleans (013688) .....	9,335,638,000
and First National Bank in Mansfield, Mansfield (011669) .....	105,112,000
merged on January 1, 1998 under the title of <b>Hibernia National Bank, New Orleans (013688)</b> .....	9,440,769,000
Whitney National Bank, New Orleans (014977) .....	3,528,722,000
and Whitney Bank of Alabama, Mobile .....	276,073,000
and Whitney National Bank of Florida, Pensacola (023161) .....	108,323,000
and Whitney National Bank of Mississippi, Gulfport (023322) .....	208,655,000
merged on January 1, 1998 under the title of <b>Whitney National Bank, New Orleans (014977)</b> .....	3,993,172,000
Bank One, Louisiana, National Association, Baton Rouge (013655) .....	5,752,638,000
and First National Bank of Commerce, New Orleans (013689) .....	6,711,784,000
and The First National Bank of Lafayette, Lafayette (005023) .....	845,805,000
and The First National Bank of Lake Charles, Lake Charles (004154) .....	564,197,000
and Central Bank, Monroe .....	1,000
and Rapides Bank & Trust Company in Alexandria, Alexandria .....	535,577,000
merged on November 16, 1998 under the title of <b>Bank One, Louisiana, National Association, Baton Rouge (013655)</b> .....	15,258,583,000
Hibernia National Bank, New Orleans (013688) .....	11,324,939,000
and Peoples Bank & Trust Company, Minden .....	227,995,000
merged on July 1, 1998 under the title of <b>Hibernia National Bank, New Orleans (013688)</b> .....	11,553,025,000
Whitney National Bank, New Orleans (014977) .....	4,625,894,000
and The First National Bank of Greenville, Greenville (005572) .....	117,281,000
merged on December 4, 1998 under the title of <b>Whitney National Bank, New Orleans (014977)</b> .....	4,743,175,000
<b>Maryland</b>	
The First National Bank of Maryland, Baltimore (001413) .....	10,334,681,000
and Dauphin Deposit Bank and Trust Company, Harrisburg .....	6,254,667,000
and The York Bank and Trust Company, York .....	1,043,407,000
merged on November 13, 1998 under the title of <b>The First National Bank of Maryland, Baltimore (001413)</b> .....	17,632,755,000



## Annual summary of affiliated mergers (continued)

Title and location (charter number)	Total assets
<b>Massachusetts</b>	
BankBoston, National Association, Boston (000200) .....	64,953,769,000
and Rhode Island Hospital Trust National Bank, Providence (015723) .....	3,437,717,000
merged on May 21, 1998 under the title of <b>BankBoston, National Association, Boston (000200)</b> .....	69,528,760,000
<b>Minnesota</b>	
U.S. Bank National Association, Minneapolis (013405) .....	67,375,521,000
and First Trust Company of North Dakota National Association, Fargo (022055) .....	7,737,000
merged on April 16, 1998 under the title of <b>U.S. Bank National Association, Minneapolis (013405)</b> .....	67,382,084,000
U.S. Bank National Association, Minneapolis (013405) .....	67,598,384,000
and Piper Trust Company, Minneapolis .....	3,243,000
merged on June 15, 1998 under the title of <b>U.S. Bank National Association, Minneapolis (013405)</b> .....	67,601,627,000
U.S. Bank National Association, Minneapolis (013405) .....	67,601,627,000
and West One Trust Company, Salt Lake City .....	2,268,000
merged on July 6, 1998 under the title of <b>U.S. Bank National Association, Minneapolis (013405)</b> .....	67,603,895,000
Norwest Bank Minnesota, National Association, Minneapolis (002006) .....	23,005,129,000
and Norwest National Bank, Westminster (018419) .....	106,984,000
merged on August 1, 1998 under the title of <b>Norwest Bank Minnesota, National Association, Minneapolis (002006)</b> .....	23,112,113,000
Norwest Bank Minnesota South, National Association, Rochester (002088) .....	2,003,615,000
and Norwest Bank North Country, National Association, Brainerd (023074) .....	214,162,000
merged on September 12, 1998 under the title of <b>Norwest Bank Minnesota South, National Association, Rochester (002088)</b> .....	2,217,777,000
Norwest Bank Minnesota North, National Association, Duluth (003626) .....	49,788,000
and Norwest Bank Cloquet, National Association, Cloquet (015230) .....	12,616,000
and Norwest Bank International Falls, National Association, International Falls (007380) .....	13,582,000
merged on September 12, 1998 under the title of <b>Norwest Bank Minnesota North, National Association, Duluth (003626)</b> .....	75,986,000
Brainerd National Bank, Baxter (015214) .....	33,733,000
and Nisswa State Bank, Nisswa .....	26,877,000
merged on December 7, 1998 under the title of <b>Lakewood Bank, National Association, Baxter (015214)</b> .....	60,353,000
Norwest Bank Minnesota, National Association, Minneapolis (002006) .....	21,958,535,000
and MidAmerica Bank, Newport .....	295,758,000
merged on October 17, 1998 under the title of <b>Norwest Bank Minnesota, National Association, Minneapolis (002006)</b> .....	22,254,293,000
Norwest Bank Minnesota South, National Association, Rochester (002088) .....	2,032,943,000
and MidAmerica Bank South, Mankato .....	110,760,000
merged on October 17, 1998 under the title of <b>Norwest Bank Minnesota South, National Association, Rochester (002088)</b> .....	2,143,703,000
<b>Missouri</b>	
Mercantile Trust Company National Association, St. Louis (022666) .....	28,702,000
and Horizon Bank, Malvern .....	1,000,000
merged on July 1, 1998 under the title of <b>Mercantile Trust Company National Association, St. Louis (022666)</b> .....	29,702,000
Mercantile Trust Company National Association, St. Louis (022666) .....	30,083,000
and Mercantile Bank of Northern Illinois, Freeport .....	5,003,000
merged on July 17, 1998 under the title of <b>Mercantile Trust Company National Association, St. Louis (022666)</b> .....	36,086,000
Mercantile Trust Company National Association, St. Louis (022666) .....	36,086,000
and Mercantile Bank of Eastern Iowa, Waterloo .....	11,426,000
merged on August 22, 1998 under the title of <b>Mercantile Trust Company National Association, St. Louis (022666)</b> .....	47,512,000

## Annual summary of affiliated mergers (continued)

Title and location (charter number)	Total assets
Mercantile Bank National Association, St. Louis (023578) .....	16,681,371,000
and Central Bank, Fairview Heights .....	598,881,000
merged on September 18, 1998 under the title of <b>Mercantile Bank National Association, St. Louis (023578)</b> .....	17,280,252,000
Mercantile Trust Company National Association, St. Louis (022666) .....	3,231,254,000
and First National Bank Iowa, Iowa City (013697) .....	554,587,000
merged on November 13, 1998 under the title of <b>Mercantile Trust Company National Association, St. Louis (022666)</b> .....	3,785,841,000
Mercantile Trust Company National Association, St. Louis (022666) .....	2,730,370,000
and The Rock Island Bank, National Association, Bettendorf (022940) .....	500,884,000
merged on November 13, 1998 under the title of <b>Mercantile Trust Company National Association, St. Louis (022666)</b> .....	3,231,254,000
Commerce Bank, National Association, Kansas City (018112) .....	8,353,181,000
and Heritage Bank of Olathe, Olathe .....	52,946,000
merged on November 2, 1998 under the title of <b>Commerce Bank, National Association, Kansas City (018112)</b> .....	8,403,127,000
Mercantile Bank of Memphis National Association, Memphis (023783) .....	62,535,000
and Mercantile Bank of Southeast Missouri, Poplar Bluff .....	1,083,910,000
and Mercantile Bank of South Central Missouri, Springfield .....	1,064,067,000
and Mercantile Bank of North Central Missouri, Macon .....	362,933,000
and Mercantile Bank of Missouri Valley, Richmond .....	100,434,000
and Mercantile Bank of Western Missouri, Joplin .....	670,282,000
and Mercantile Bank National Association, St. Louis (023578) .....	16,639,425,000
and Mercantile Bank of Central Missouri, Washington .....	1,417,215,000
merged on December 11, 1998 under the title of <b>Mercantile Bank National Association, St. Louis (023783)</b> .....	21,400,801,000
<b>Montana</b>	
Mountain West Bank, National Association, Helena (022141) .....	118,426,000
and Mountain West Bank of Great Falls, National Association, Great Falls (022815) .....	49,309,000
merged on January 1, 1998 under the title of <b>Mountain West Bank, National Association, Helena (022141)</b> .....	167,735,000
First National Bank of Montana, Inc., Libby (015150) .....	66,589,000
and First National Bank of Montana, Butte (022782) .....	23,757,000
merged on January 1, 1998 under the title of <b>First National Bank of Montana, Inc., Libby (015150)</b> .....	90,346,000
United Bank of Absarokee, National Association, Absarokee (015091) .....	22,192,000
and United Bank of Columbus, National Association, Columbus (022913) .....	6,805,000
merged on March 6, 1998 under the title of <b>United Banks, National Association, Absarokee (015091)</b> .....	28,997,000
<b>Nebraska</b>	
The Stockmens National Bank of Rushville, Rushville (009191) .....	84,435,000
and Stockmens Bank, National Association, Martin (023197) .....	22,655,000
merged on October 1, 1997 under the title of <b>Stockmens National Bank, Rushville (009191)</b> .....	106,000,000
Norwest Bank Nebraska, National Association, Omaha (002978) .....	2,130,999,000
and Packers Bank, Omaha .....	162,147,000
merged on March 21, 1998 under the title of <b>Norwest Bank Nebraska, National Association, Omaha (002978)</b> .....	2,289,768,000
American National Bank, Omaha (015435) .....	304,272,000
and The Fairbury State Bank, Fairbury on August 22, 1998 .....	36,729,000
and American National Bank of Sarpy County, Papillion (018765) on August 29, 1998 .....	91,842,000
and American National Bank, Nebraska City (022274) on September 12, 1998 .....	111,982,000
merged on those respective dates under the title of <b>American National Bank, Omaha (015435)</b> .....	544,825,000
The Security National Bank, Laurel (013182) .....	43,846,000
and Osmond State Bank, Osmond .....	32,163,000
merged on November 2, 1998 under the title of <b>The Security National Bank, Laurel (013182)</b> .....	76,009,000

## Annual summary of affiliated mergers (continued)

Title and location (charter number)	Total assets
Midwest Bank National Association, Pierce (023797) .....	44,028,000
and The American National Bank of Creighton, Creighton (013591) .....	60,956,000
and The Nebraska Security Bank, Deshler .....	27,941,000
and The Farmers National Bank in Pilger, Pilger (013453) .....	25,350,000
and Plainview National Bank, Plainview (015248) .....	47,018,000
merged on December 30, 1998 under the title of <b>Midwest Bank National Association, Pierce (023797)</b> .....	205,293,000
<b>Nevada</b>	
Household Bank (Nevada), National Association, Las Vegas (018818) .....	4,064,691,000
and Household Bank (Illinois), National Association, Prospect Heights (018767) .....	2,269,000
merged on December 31, 1998 under the title of <b>Household Bank (Nevada), National Association, Las Vegas (018818)</b> .....	4,066,187,000
<b>New Hampshire</b>	
First Deposit National Bank, Tilton (001333) .....	2,983,805,000
and Providian National Bank, Concord (022028) .....	670,118,000
merged on January 1, 1998 under the title of <b>Providian National Bank, Tilton (001333)</b> .....	4,846,763,000
<b>New Jersey</b>	
Equity Bank, National Association, Marlton (012617) .....	207,284,000
and Farmers National Bank of Mullica Hill, Mullica Hill (006728) .....	87,723,000
merged on October 1, 1998 under the title of <b>Equity Bank, National Association, Marlton (012617)</b> .....	295,007,000
<b>New Mexico</b>	
Norwest Bank New Mexico, National Association, Albuquerque (006187) .....	2,365,179,000
and Norwest Bank New Mexico Northeast, National Association, Tucumcari (006081) .....	93,446,000
merged on May 16, 1998 under the title of <b>Norwest Bank New Mexico, National Association, Albuquerque (006187)</b> ....	2,458,625,000
Norwest Bank New Mexico, National Association, Albuquerque (006187) .....	2,487,427,000
and The Bank of New Mexico, Albuquerque .....	393,747,000
merged on November 21, 1998 under the title of <b>Norwest Bank New Mexico, National Association, Albuquerque (006187)</b> .....	2,881,174,000
First National Bank of Dona Ana County, Las Cruces (007720) .....	379,152,000
and First National Bank of Chaves County, Roswell (021013) .....	37,761,000
merged on July 1, 1998 under the title of <b>First Security Bank of Southern New Mexico, National Association, Las Cruces (007720)</b> .....	416,913,000
Centennial Bank, National Association, Farmington (023795) .....	54,673,000
and Vectra Bank Colorado, National Association, Denver (023684) .....	1,926,053,000
merged on December 31, 1998 under the title of <b>Vectra Bank Colorado, National Association, Farmington (023849)</b> ....	1,980,836,000
<b>North Carolina</b>	
First Union National Bank, Charlotte (015650) .....	83,858,310,000
and Signet Trust Company, Richmond .....	1,000
merged on February 27, 1998 under the title of <b>First Union National Bank, Charlotte (015650)</b> .....	83,858,310,000
NationsBank, National Association, Charlotte (014448) .....	168,646,671,000
and NationsBank of Texas, National Association, Dallas (021834) .....	44,208,672,000
merged on May 6, 1998 under the title of <b>NationsBank, National Association, Charlotte (014448)</b> .....	198,829,921,000
NationsBank, National Association, Charlotte (014448) .....	168,855,893,000
and Sun World, National Association, Santa Teresa (023012) .....	114,851,000
merged on January 15, 1998 under the title of <b>NationsBank, National Association, Charlotte (014448)</b> .....	168,646,671,000
NationsBank, National Association, Charlotte (014448) .....	198,829,921,000
and Boatmen's Trust Company, St. Louis .....	497,060,000
merged on March 13, 1998 under the title of <b>NationsBank, National Association, Charlotte (014448)</b> .....	199,326,981,000

## Annual summary of affiliated mergers (continued)

Title and location (charter number)	Total assets
NationsBank, National Association, Charlotte (014448) .....	199,326,981,000
and Boatmen's Trust Company of Illinois, Belleville .....	5,704,000
merged on January 23, 1998 under the title of <b>NationsBank, National Association, Charlotte (014448)</b> .....	199,332,685,000
NationsBank, National Association, Charlotte (014448) .....	199,115,000,000
and Boatmen's Trust Company of Oklahoma, Oklahoma City .....	9,192,000
merged on March 13, 1998 under the title of <b>NationsBank, National Association, Charlotte (014448)</b> .....	199,115,122,000
First Union National Bank, Avondale (022693) .....	27,687,437,000
and First Union National Bank, Charlotte (015650) .....	120,446,313,000
merged on February 26, 1998 under the title of <b>First Union National Bank, Charlotte (022693)</b> .....	146,796,287,000
NationsBank, National Association, Charlotte (014448) .....	205,421,203,000
and Boatmen's Trust Company of Arkansas, Little Rock .....	9,641,000
merged on March 28, 1998 under the title of <b>NationsBank, National Association, Charlotte (014448)</b> .....	205,430,844,000
First Union National Bank, Avondale (022693) .....	146,796,000,000
and CoreStates Bank, National Association, Charlotte (000001) .....	44,430,000,000
merged on May 15, 1998 under the title of <b>First Union National Bank, Charlotte (000001)</b> .....	191,226,000,000
Wachovia Bank, National Association, Winston-Salem (001559) .....	18,918,575,000
and Central Fidelity National Bank, Richmond (022667) .....	10,540,360,000
and Jefferson National Bank, Charlottesville (006031) .....	2,150,139,000
merged on March 20, 1998 under the title of <b>Wachovia Bank, National Association, Winston-Salem (001559)</b> .....	31,609,074,000
NationsBank, National Association, Charlotte (014448) .....	228,345,571,000
and Boatmen's National Bank of Austin, Austin (021889) .....	147,561,000
and Sunwest Bank of El Paso, National Association, El Paso (023647) .....	626,443,000
merged on July 9, 1998 under the title of <b>NationsBank, National Association, Charlotte (014448)</b> .....	228,781,767,000
NationsBank, National Association, Charlotte (014448) .....	236,630,154,000
and NationsBank, National Association (Glynn County), Brunswick (023489) .....	236,778,000
merged on August 6, 1998 under the title of <b>NationsBank, National Association, Charlotte (014448)</b> .....	236,844,847,000
First Union National Bank, Charlotte (000001) .....	204,614,842,000
and Mentor Trust Company (Virginia), Richmond .....	130,000
and Mentor Trust Company, Philadelphia .....	21,870,000
merged on August 13, 1998 under the title of <b>First Union National Bank, Charlotte (000001)</b> .....	204,635,842,000
NationsBank, National Association, Charlotte (014448) .....	236,844,847,000
and Barnett Bank, National Association, Jacksonville (009049) .....	46,340,553,000
and Community Bank of the Islands, Sanibel .....	100,833,000
merged on October 8, 1998 under the title of <b>NationsBank, National Association, Charlotte (014448)</b> .....	272,737,042,000
NationsBank, National Association, Charlotte (014448) .....	270,412,797,000
and NationsBank of Tennessee, National Association, Nashville (022567) .....	6,355,173,000
merged on November 12, 1998 under the title of <b>NationsBank, National Association, Charlotte (014448)</b> .....	265,252,996,000
Wachovia Bank, National Association, Winston-Salem (001559) .....	61,488,000,000
and 1st United Bank, Palm Beach .....	52,824,000
merged on July 1, 1998 under the title of <b>Wachovia Bank, National Association, Winston-Salem (001559)</b> .....	62,506,203,000
First Charter National Bank, Concord (003903) .....	561,951,000
and Bank of Union, Monroe .....	205,236,000
merged on September 10, 1998 under the title of <b>First Charter National Bank, Concord (003903)</b> .....	767,125,000
<b>North Dakota</b>	
U.S. Bank National Association ND, Fargo (023446) .....	38,493,000
and First Bank of South Dakota (National Association), Sioux Falls (023395) .....	1,600,154,000
merged on March 23, 1998 under the title of <b>U.S. Bank National Association ND, Fargo (023446)</b> .....	1,632,747,000

## Annual summary of affiliated mergers (continued)

Title and location (charter number)	Total assets
Norwest Bank North Dakota, National Association, Fargo (002377) .....	1,354,289,000
and First National Bank of Valley City, Valley City (013324) .....	53,501,000
and The First State Bank of Casselton, Casselton .....	33,343,000
and Litchville State Bank, Litchville .....	13,436,000
merged on October 24, 1998 under the title of <b>Norwest Bank North Dakota, National Association, Fargo</b> (002377) .....	1,454,569,000
<b>Ohio</b>	
National City Bank, Cleveland (000786) .....	10,551,671,000
and National City Bank of Columbus, Columbus (005065) .....	6,345,916,000
and National City Bank of Dayton, Dayton (001788) .....	2,489,280,000
merged on January 31, 1998 under the title of <b>National City Bank, Cleveland</b> (000786) .....	22,189,978,000
FirstMerit Bank, National Association, Akron (014579) .....	2,925,710,000
and Citizens National Bank, Canton (013687) .....	971,379,000
and Peoples National Bank, Wooster (022722) .....	152,594,000
and Peoples Bank, National Association, Ashtabula (018821) .....	344,515,000
merged on March 23, 1998 under the title of <b>FirstMerit Bank, National Association, Akron</b> (014579) .....	5,282,206,000
The Fifth Third Bank of Northwestern Ohio, National Association, Toledo (014586) .....	2,600,409,000
and Fifth Third Bank of Northeastern Ohio, Cleveland .....	2,463,035,000
merged on January 2, 1998 under the title of <b>The Fifth Third Bank of Northwestern Ohio, National Association, Toledo</b> (014586) .....	4,886,194,000
First-Knox National Bank, Mount Vernon (007638) .....	526,905,000
and The Farmers and Savings Bank, Loudonville, Ohio, Loudonville .....	60,165,000
merged on December 30, 1997 under the title of <b>First-Knox National Bank, Mount Vernon</b> (007638) .....	586,470,000
Bank One Trust Company, National Association, Columbus (016235) .....	1,154,651,000
and Bank One, Quad Cities, National Association, Moline (014561) .....	164,417,000
merged on March 20, 1998 under the title of <b>Bank One Trust Company, National Association, Columbus</b> (016235) .....	1,319,068,000
KeyBank National Association, Cleveland (014761) .....	63,480,525,000
and KeyBank National Association, Bedford (023284) .....	46,652,000
merged on June 30, 1998 under the title of <b>KeyBank National Association, Cleveland</b> (014761) .....	63,527,177,000
KeyBank National Association, Cleveland (014761) .....	68,734,357,000
and Key Interim Wyoming National Association, Cheyenne (023668) .....	60,000
and KeyTrust Company National Association, Cheyenne (023311) .....	4,428,000
merged on July 31, 1998 under the title of <b>KeyBank National Association, Cleveland</b> (014761) .....	68,738,785,000
The Second National Bank of Warren, Warren (002479) .....	931,000,000
and Enterprise Bank, Solon .....	44,000,000
merged on August 20, 1998 under the title of <b>The Second National Bank of Warren, Warren</b> (002479) .....	975,000,000
Bank One Trust Company, National Association, Columbus (016235) .....	1,086,119,000
and City National Bank of Baton Rouge, Baton Rouge (013737) .....	104,483,000
merged on November 16, 1998 under the title of <b>Bank One Trust Company, National Association, Columbus</b> (016235) .....	1,190,602,000
Star Bank, National Association, Cincinnati (000024) .....	14,812,780,000
and Trans Financial Bank, National Association, Bowling Green (022833) .....	1,703,699,000
and Trans Financial Bank Tennessee, National Association, Cookeville (022774) .....	532,447,000
merged on August 21, 1998 under the title of <b>Star Bank, National Association, Cincinnati</b> (000024) .....	16,914,801,000
<b>Oklahoma</b>	
Tri Star National Bank, Blanchard (023336) .....	60,000
and Tri Star National Bank, Blanchard (018545) .....	31,124,000
merged on February 2, 1998 under the title of <b>Tri Star National Bank, Blanchard</b> (018545) .....	31,124,000

## Annual summary of affiliated mergers (continued)

Title and location (charter number)	Total assets
F&M Bank, National Association, Yukon (023348) .....	240,000
and Farmers & Merchants Bank of Piedmont, Piedmont .....	21,141,000
merged on August 10, 1998 under the title of <b>F&amp;M Bank, National Association, Yukon (023348)</b> .....	21,381,000
<b>Pennsylvania</b>	
PNC Bank, National Association, Pittsburgh (001316) .....	56,291,024,000
and PNC Bank, Ohio, National Association, Cincinnati (016416) .....	3,989,854,000
and PNC Bank, Kentucky, Inc., Louisville .....	4,650,451,000
and PNC Bank, Indiana, Inc., New Albany .....	561,915,000
merged on December 31, 1997 under the title of <b>PNC Bank, National Association, Pittsburgh (001316)</b> .....	65,492,224,000
<b>South Carolina</b>	
Anderson National Bank, Anderson (018282) .....	117,937,000
and The Community Bank of Greenville, National Association, Greenville (022935) .....	48,249,000
merged on March 13, 1998 under the title of <b>Anderson National Bank, Anderson (018282)</b> .....	166,091,000
<b>Tennessee</b>	
Union Planters Bank, National Association, Memphis (013349) .....	5,494,664,000
and First Financial Bank of Mississippi County, East Prairie .....	30,030,000
and Union Planters Bank of Northwest Mississippi, Clarksdale .....	548,881,000
and Union Planters Bank of the Cumberlands, Cookeville .....	244,974,000
and Union Planters Bank of Southwest Tennessee, Somerville .....	184,456,000
and Union Planters Bank of Northeast Arkansas, Jonesboro .....	707,222,000
and Union Planters Bank of Mississippi, Grenada .....	518,808,000
and Union Planters Bank of South Central Tennessee, Hohenwald .....	59,112,000
and Union Planters Bank of Southeast Missouri, Cape Girardeau .....	358,673,000
and Union Planters Bank of Missouri, St. Louis .....	189,373,000
and Union Planters Bank of Lexington, Lexington .....	141,491,000
and Union Planters Bank of Chattanooga, National Association, Chattanooga (022758) .....	133,334,000
and Union Planters Bank of Central Mississippi, Jackson .....	594,940,000
and Union Planters Bank of North Central Tennessee, Erin .....	52,594,000
and Union Planters Bank of Southern Mississippi, Hattiesburg .....	358,673,000
and Bank of Commerce, Woodbury .....	79,404,000
and Union Planters Bank of Alabama, Decatur .....	439,584,000
and Union Planters Bank of Central Arkansas, National Association, Clinton (018604) .....	92,588,000
and Union Planters Bank of Northeast Mississippi, National Association, New Albany (015519) .....	270,975,000
and Union Planters Bank of Jackson, National Association, Jackson (022759) .....	328,127,000
and Union Planters Bank of the Tennessee Valley, Harriman .....	192,195,000
and Union Planters Bank of Southwest Missouri, Springfield .....	678,303,000
and Union Planters Bank of Middle Tennessee, National Association, Nashville (022761) .....	1,045,447,000
and Union Planters Bank of Louisiana, Baton Rouge .....	609,362,000
and The First National Bank of Crossville, Crossville (009809) .....	182,706,000
and First National Bank of Shelbyville, Shelbyville (010785) .....	198,388,000
and Union Planters Bank of West Tennessee, Humboldt .....	441,941,000
and The Bank of Goodlettsville, Goodlettsville .....	171,192,000
and Union Planters Bank of Mid-Missouri, Columbia .....	99,640,000
and Union Planters Bank of East Tennessee, National Association, Knoxville (022760) .....	436,775,000
and Union Planters Bank of the Tennessee Delta, Brownsville .....	84,179,000
and Simpson County Bank, Franklin .....	112,974,000
merged on January 1, 1998 under the title of <b>Union Planters Bank, National Association, Memphis (013349)</b> .....	16,659,583,000
First American National Bank, Nashville (003032) .....	10,594,000
and Victory Bank and Trust Company, Cordova .....	131,588,000
merged on June 1, 1998 under the title of <b>First American National Bank, Nashville (003032)</b> .....	10,726,000

## Annual summary of affiliated mergers (continued)

Title and location (charter number)	Total assets
National Bank of Commerce, Memphis (013681) .....	3,274,339,000
and Citizens' Bank, Marion .....	66,440,000
and Bank of West Memphis, West Memphis .....	106,410,000
merged on June 19, 1998 under the title of <b>National Bank of Commerce, Memphis (013681)</b> .....	3,447,189,000
First Commercial Bank, National Association of West Memphis, West Memphis (023608) .....	290,464,000
and First Commercial Bank, National Association of Memphis, Memphis (022278) .....	472,883,000
merged on March 27, 1998 under the title of <b>First Commercial Bank, National Association of Memphis, Memphis (023608)</b> .....	763,347,000
Union Planters Bank, National Association, Memphis (013349) .....	5,380,592,000
and City Bank & Trust Company, McMinnville .....	274,045,000
merged on July 7, 1998 under the title of <b>Union Planters Bank, National Association, Memphis (013349)</b> .....	5,410,768,000
Union Planters Bank, National Association, Memphis (013349) .....	15,684,563,000
and Selmer Bank & Trust Company, Selmer .....	132,989,000
merged on August 6, 1998 under the title of <b>Union Planters Bank, National Association, Memphis (013349)</b> .....	15,817,000,000
Union Planters Bank, National Association, Memphis (013349) .....	15,684,563,000
and Duck Hill Bank, Duck Hill .....	20,391,000
merged on August 1, 1998 under the title of <b>Union Planters Bank, National Association, Memphis (013349)</b> .....	15,704,954,000
First American National Bank, Nashville (003032) .....	9,738,211,000
and Deposit Guaranty National Bank, Jackson (015548) .....	5,316,721,000
merged on September 1, 1998 under the title of <b>First American National Bank, Nashville (003032)</b> .....	14,531,386,000
Union Planters Bank, National Association, Memphis (013349) .....	15,684,563,000
and Merchants and Farmers Bank, West Helena .....	101,344,000
and Farmers & Merchants Bank, Des Arc .....	46,202,000
merged on July 6, 1998 under the title of <b>Union Planters Bank, National Association, Memphis (013349)</b> .....	15,785,873,000
Union Planters Bank, National Association, Memphis (013349) .....	15,684,563,000
and Union Planters Bank of Florida, Miami .....	2,157,591,000
merged on August 1, 1998 under the title of <b>Union Planters Bank, National Association, Memphis (013349)</b> .....	17,842,154,000
First Tennessee Bank National Association, Memphis (000336) .....	14,983,371,000
and First Tennessee Bank National Association Mississippi, Southaven (022494) .....	78,695,000
merged on December 18, 1998 under the title of <b>First Tennessee Bank National Association, Memphis (000336)</b> .....	15,036,389,000
National Bank of Commerce, Memphis (013681) .....	3,377,672,000
and The Citizens Bank, Collierville .....	40,795,000
merged on September 18, 1998 under the title of <b>National Bank of Commerce, Memphis (013681)</b> .....	3,582,261,000
First American National Bank, Nashville (003032) .....	10,531,366,000
and Pioneer Bank, Chattanooga .....	747,708,000
merged on November 20, 1998 under the title of <b>First American National Bank, Nashville (003032)</b> .....	11,279,074,000
First American National Bank, Nashville (003032) .....	10,531,366,000
and Valley Bank, Sweetwater .....	190,597,000
merged on November 20, 1998 under the title of <b>First American National Bank, Nashville (003032)</b> .....	107,721,963,000
Union Planters Bank, National Association, Memphis (013349) .....	15,684,563,000
and Magna Bank, National Association, Brentwood (023001) .....	7,218,374,000
merged on October 9, 1998 under the title of <b>Union Planters Bank, National Association, Memphis (013349)</b> .....	27,637,174,000
<b>Texas</b>	
National Bank of Commerce, Pampa (017829) .....	59,537,000
and First Bank & Trust, Shamrock .....	21,238,000
merged on March 31, 1998 under the title of <b>National Bank of Commerce, Pampa (017829)</b> .....	81,431,000

## Annual summary of affiliated mergers (continued)

Title and location (charter number)	Total assets
NationsBank of Texas, National Association, Dallas (021834) .....	54,012,136,000
and Boatmen's First National Bank of Amarillo, Amarillo (004214) .....	1,495,046,000
merged on February 19, 1998 under the title of <b>NationsBank of Texas, National Association, Dallas (021834)</b> .....	55,429,512,000
First National Bank of Park Cities, Dallas (018307) .....	301,767,000
and First Texas Bank, Dallas .....	169,207,000
merged on January 1, 1998 under the title of <b>Bank of Texas, National Association, Dallas (018307)</b> .....	470,974,000
Commercial Bank of Texas, National Association, Nacogdoches (014371) .....	138,213,000
and Boet Interim Bank, National Association, Nacogdoches (023584) .....	120,242,000
merged on January 30, 1998 under the title of <b>Commercial Bank of Texas, National Association, Nacogdoches (014371)</b> .....	250,342,000
The Frost National Bank, San Antonio (005179) .....	5,093,663,000
and Harrisburg Bank, Houston, Texas, Houston .....	226,423,000
merged on January 2, 1998 under the title of <b>The Frost National Bank, San Antonio (005179)</b> .....	5,353,799,000
Norwest Bank Texas, National Association, San Antonio (014208) .....	8,345,098,000
and Fidelity Bank & Trust, National Association, Fort Worth (022989) .....	104,242,000
and Continental State Bank, Boyd .....	139,061,000
merged on June 20, 1998 under the title of <b>Norwest Bank Texas, National Association, San Antonio (014208)</b> .....	8,574,379,000
Hibernia National Bank of Texas, Texarkana (003785) .....	623,206,000
and First National Bank, Marshall (003113) .....	288,656,000
merged on March 15, 1998 under the title of <b>Hibernia National Bank of Texas, Texarkana (003785)</b> .....	911,862,000
MainBank, National Association, Dallas (020513) .....	52,808,000
and MainBank, Dallas .....	122,416,000
merged on March 10, 1998 under the title of <b>MainBank, National Association, Dallas (020513)</b> .....	175,224,000
The Harlingen National Bank, Harlingen (014776) .....	173,036,000
and First National Bank of La Feria, La Feria (012747) .....	46,255,000
merged on May 18, 1998 under the title of <b>The Harlingen National Bank, Harlingen (014776)</b> .....	215,124,000
San Angelo National Bank, San Angelo (023445) .....	272,990,000
and San Angelo Trust Company, National Association, San Angelo (023448) .....	1,033,000
merged on May 4, 1998 under the title of <b>San Angelo National Bank, San Angelo (023445)</b> .....	274,023,000
The Frost National Bank, San Antonio (005179) .....	5,389,479,000
and Overton Bank and Trust, National Association, Fort Worth (016716) .....	861,723,000
merged on May 29, 1998 under the title of <b>The Frost National Bank, San Antonio (005179)</b> .....	6,251,202,000
Norwest Bank Texas, National Association, San Antonio (014208) .....	8,432,349,000
and Norwest Trust Texas, Odessa, National Association, Odessa (023271) .....	971,000
and Founders Trust Company, Dallas .....	9,899,000
merged on September 28, 1998 under the title of <b>Norwest Bank Texas, National Association, San Antonio (014208)</b> .....	8,443,219,000
Norwest Bank Texas, National Association, San Antonio (014208) .....	8,512,168,000
and First State Bank, Austin .....	597,936,000
merged on November 14, 1998 under the title of <b>Norwest Bank Texas, National Association, San Antonio (014208)</b> .....	9,110,104,000
Citizens National Bank, Henderson (013443) .....	332,389,000
and First State Bank, Waskom .....	25,979,000
merged on July 23, 1998 under the title of <b>Citizens National Bank, Henderson (013443)</b> .....	358,368,000
Citizens National Bank, Henderson (013443) .....	350,273,000
and Jefferson National Bank, Jefferson (018060) .....	36,103,000
merged on December 11, 1998 under the title of <b>Citizens National Bank, Henderson (013443)</b> .....	386,376,000
<b>West Virginia</b>	
United National Bank, Parkersburg (001427) .....	2,419,407,000
and Fed One Bank, Wheeling .....	367,667,000
merged on October 17, 1998 under the title of <b>United National Bank, Parkersburg (001427)</b> .....	2,851,949,000



### Annual summary of affiliated mergers (continued)

Title and location (charter number)	Total assets
<b>Wisconsin</b>	
The Stephenson National Bank and Trust, Marinette (004137) .....	111,000,000
and The Stephenson National Bank, Menominee (023535) .....	1,000
merged on April 20, 1998 under the title of <b>The Stephenson National Bank and Trust, Marinette (004137)</b> .....	111,000,000
Hiawatha National Bank, Hager City (015698) .....	24,068,000
and First National Bank of Glenwood, Glenwood City (015696) .....	22,059,000
merged on February 28, 1998 under the title of <b>Hiawatha National Bank, Hager City (015698)</b> .....	46,127,000
Firstar Bank Milwaukee, National Association, Milwaukee (000064) .....	8,249,231,000
and Firstar Trust Company, Milwaukee .....	620,874,000
merged on September 30, 1998 under the title of <b>Firstar Bank Milwaukee, National Association, Milwaukee (000064)</b> .....	8,375,096,000
Eagle Valley Bank, National Association, St. Croix Falls (011526) .....	53,124,000,000
and State Bank of Dennison, Dennison .....	10,434,000,000
merged on October 1, 1998 under the title of <b>Eagle Valley Bank, National Association, St. Croix Falls (011526)</b> .....	63,498,000,000
Norwest Bank Wisconsin, National Association, Milwaukee (015057) .....	1,684,877,000
and MidAmerica Bank North, Phillips .....	97,229,000
and MidAmerica Bank, Dodgeville .....	85,931,000
merged on November 7, 1998 under the title of <b>Norwest Bank Wisconsin, National Association, Milwaukee (015057)</b> ...	1,868,037,000

**Annual summary of affiliated mergers— thrift (mergers consummated involving affiliated national banks and savings and loan associations), from January 1 to December 31, 1998**

Title and location (charter number)	Total assets
<b>Alabama</b>	
SouthTrust Bank, National Association, Birmingham (014569) .....	20,977,929,000
and First of America Bank-Florida, F.S.B, Tampa .....	1,160,195,000
merged on January 30, 1998 under the title of <b>SouthTrust Bank, National Association, Birmingham (014569)</b> .....	30,264,408,000
<b>Kentucky</b>	
Peoples First National Bank and Trust Company, Paducah (012961) .....	1,290,705,000
and Peoples First, F.S.B., Central City .....	177,732,000
merged on February 12, 1998 under the title of <b>Peoples First National Bank and Trust Company, Paducah (012961)</b> ....	1,468,278,000
<b>Massachusetts</b>	
The Foxboro National Bank of Foxborough, Foxboro (009426) .....	73,380,000
and Benjamin Franklin Savings Bank, Franklin .....	100,000
merged on March 20, 1998 under the title of <b>The Foxboro National Bank of Foxborough, Foxboro (009426)</b> .....	73,380,000
<b>New York</b>	
Premier National Bank, Poughkeepsie (000035) .....	712,156,000
and Pawling Savings Bank, Pawling .....	879,152,000
merged on July 17, 1998 under the title of <b>Premier National Bank, Poughkeepsie (000035)</b> .....	1,587,408,000
<b>Ohio</b>	
Bank One, National Association, Columbus (007621) .....	25,773,935,000
and First USA Federal Savings Bank, Wilmington .....	269,967,000
merged on April 1, 1998 under the title of <b>Bank One, National Association, Columbus (007621)</b> .....	25,339,643,000
FirstMerit Bank, National Association, Akron (014579) .....	3,852,064,000
and Jefferson Savings Bank, West Jefferson .....	62,513,000
and PremierBank & Trust, Elyria .....	601,637,000
merged on May 22, 1998 under the title of <b>FirstMerit Bank, National Association, Akron (014579)</b> .....	4,605,900,000
The First National Bank of Zanesville, Zanesville (000164) .....	479,378,000
and County Savings Bank, Newark .....	564,442,000
and The Bellbrook Community Bank, Bellbrook .....	42,381,000
merged on May 16, 1998 under the title of <b>The First National Bank of Zanesville, Zanesville (000164)</b> .....	479,378,000
FirstMerit Bank, National Association, Akron (014579) .....	4,612,198,000
and Security Federal Savings & Loan Association of Cleveland, Mayfield Heights .....	569,860,000
and First Federal Savings Bank of Kent, Kent.....	93,182,000
merged on October 23, 1998 under the title of <b>FirstMerit Bank, National Association, Akron (014579)</b> .....	5,275,240,000
<b>Tennessee</b>	
Union Planters Bank, National Association, Memphis (013349) .....	5,475,565,000
and Capital Savings Bank, FSB, Jefferson City .....	241,719,000
merged on July 9, 1998 under the title of <b>Union Planters Bank, National Association, Memphis (013349)</b> .....	5,717,284,000
<b>Virginia</b>	
One Valley Bank- Central Virginia, National Association, Lynchburg (023467) .....	697,735,000
and First Federal Savings Bank of Lynchburg, Lynchburg .....	562,369,000
merged on June 8, 1998 under the title of <b>One Valley Bank—Central Virginia, National Association, Lynchburg (023467)</b> .....	1,260,104,000

## Changes in the corporate structure of the national banking system, by state, July 1 to December 31, 1998

	In operation July 1, 1998	Organized and opened for business	merged	Voluntary liquidations	Payouts	12 USC 214		In operation December 31, 1998
						Converted to non-national institutions	merged with non-national institutions	
Alabama .....	34	0	1	0	0	0	2	31
Alaska .....	4	0	0	0	0	0	0	4
Arizona .....	16	0	0	0	0	0	0	16
Arkansas .....	64	0	0	0	0	1	6	57
California .....	105	3	1	0	0	3	2	102
Colorado .....	72	0	8	0	0	0	0	64
Connecticut .....	9	0	0	0	0	0	0	9
Delaware .....	21	2	0	0	0	0	1	22
District of Columbia .....	7	1	0	0	0	0	0	8
Florida .....	96	2	3	0	0	0	1	94
Georgia .....	63	5	2	0	0	0	1	65
Hawaii .....	1	0	0	0	0	0	0	1
Idaho .....	1	0	0	0	0	0	0	1
Illinois .....	233	2	4	0	0	1	2	229
Indiana .....	50	0	5	0	0	0	0	45
Iowa .....	52	1	2	0	0	0	0	51
Kansas .....	115	0	3	0	0	0	0	112
Kentucky .....	69	2	6	0	0	0	2	63
Louisiana .....	24	0	4	0	0	0	0	20
Maine .....	7	0	0	0	0	0	0	7
Maryland .....	21	0	0	0	0	1	1	19
Massachusetts .....	21	0	0	0	0	0	1	20
Michigan .....	38	0	0	0	0	1	0	36
Minnesota .....	145	2	3	0	0	0	0	144
Mississippi .....	22	0	2	0	0	0	0	20
Missouri .....	51	1	1	0	0	0	0	51
Montana .....	18	0	0	0	0	0	0	18
Nebraska .....	101	1	5	0	0	0	1	96
Nevada .....	7	0	0	0	0	0	0	8
New Hampshire .....	8	0	1	0	0	0	0	7
New Jersey .....	27	0	1	0	0	0	1	25
New Mexico .....	19	3	2	0	0	0	0	21
New York .....	67	0	0	0	0	0	0	67
North Carolina .....	10	1	0	0	0	0	0	11
North Dakota .....	19	0	1	0	0	0	0	18
Ohio .....	104	1	0	0	0	0	0	105
Oklahoma .....	119	3	0	0	0	1	2	119
Oregon .....	4	1	0	0	0	0	0	5
Pennsylvania .....	112	0	0	0	0	1	3	108
Rhode Island .....	2	0	0	0	0	0	0	2
South Carolina .....	21	3	0	0	0	0	4	20
South Dakota .....	23	0	0	0	0	0	0	23
Tennessee .....	37	1	2	0	0	0	1	34
Texas .....	416	5	4	0	0	1	8	408
Utah .....	8	1	0	0	0	0	0	8
Vermont .....	12	1	0	0	0	0	0	13
Virginia .....	31	1	0	0	0	0	0	32
Washington .....	20	1	0	0	0	0	1	20
West Virginia .....	34	0	1	0	0	0	2	31
Wisconsin .....	62	1	0	0	0	0	2	61
Wyoming .....	23	0	1	0	0	0	1	21
United States .....	2,644	45	63	0	0	10	45	2,572

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

**Applications for new, full-service national bank charters, approved and denied, by state,  
July 1 to December 31, 1998**

Title and location	Approved	Denied
<b>California</b>		
Santa Clara Valley Bank, National Association, Santa Paula .....	July 6	
<b>Colorado</b>		
First Commerce Bank of Colorado, National Association, Colorado Springs .....	December 30	
<b>Connecticut</b>		
Westport National Bank, Westport .....	August 11	
<b>Delaware</b>		
Sun National Bank, Delaware Wilmington .....	October 29	
<b>Florida</b>		
Community Bank of Naples, National Association, Naples .....	December 7	
Community National Bank of Mid-Florida, Lake Mary .....	December 16	
First National Bank, Orange Park .....	October 28	
Firststar Bank Florida, National Association, West Palm Beach .....	December 24	
Landmark Bank, National Association, Fort Lauderdale .....	July 1	
Marine National Bank of Naples, Naples .....	December 16	
<b>Georgia</b>		
Southern National Bank, Marietta .....	December 3	
<b>Illinois</b>		
Associated Bank Illinois, National Association, Rockford .....	October 15	
<b>Iowa</b>		
New National Bank of Davenport, Davenport .....	December 16	
<b>Kansas</b>		
Horizon National Bank, Leawood .....	November 24	
University National Bank, Pittsburg .....	October 14	
<b>Mississippi</b>		
Commerce National Bank, Corinth .....	November 3	
The First National Bank of The Pine Belt, Laurel .....	November 13	
<b>Nebraska</b>		
First Central Bank McCook, National Association, McCook .....	October 15	
<b>New Jersey</b>		
Grand Bank, National Association, Monmouth Junction .....	December 18	
<b>New Mexico</b>		
Bank of Albuquerque, National Association, Albuquerque .....	October 21	
<b>New York</b>		
Intervest National Bank, New York .....	December 3	
<b>South Carolina</b>		
Seneca National Bank, Seneca .....	December 11	
<b>Texas</b>		
Clear Lake National Bank, San Antonio .....	November 2	
First National Bank of Midland, Midland .....	September 24	
Fort Worth National Bank, Fort Worth .....	November 25	
Redstone Bank, National Association, Houston .....	July 16	
Republic National Bank, Houston .....	September 4	
South Padre Bank, National Association, South Padre Island .....	September 23	

**Applications for new, full-service national bank charters (continued)**

Title and location	Approved	Denied
Texas Capital Bank, National Association, Dallas .....	December 18	
The First National Bank of Hereford, Hereford .....	October 15	
<b>Wisconsin</b>		
Associated Interim Bank Green Bay, National Association, Green Bay .....	October 15	
Associated Interim Bank Lakeshore, National Association, Manitowoc .....	October 15	
Associated Interim Bank, National Association, Neenah .....	October 15	

**Applications for new, limited-purpose national bank charters, approved and denied, by state,  
July 1 to December 31, 1998**

Title and location	Type of Bank	Approved	Denied
<b>Delaware</b>			
PNC Trust Company Delaware, National Association, Wilmington....	Trust (Non-Deposit)	November 13	
<b>Georgia</b>			
Belk National Bank, Norcross .....	Credit Card	November 25	
<b>Illinois</b>			
D.L. Moody Trust Company, National Association, Chicago ....	Trust (Non-Deposit)	October 22	
Wintrust Asset Management Company, National Association, Lake Forest .....	Trust (Non-Deposit)	August 26	
<b>Massachusetts</b>			
Cambridge Appleton Trust, National Association, Cambridge ...	Trust (Non-Deposit)	December 8	
<b>Michigan</b>			
King Trust Company, National Association, Spring Arbor .....	Trust (Non-Deposit)	October 22	
<b>Oklahoma</b>			
InvesTrust, National Association, Oklahoma City .....	Trust (Non-Deposit)	August 6	
<b>Pennsylvania</b>			
First National Trust Company, Hermitage .....	Trust (Non-Deposit)	December 30	
PNC Trust Company Pennsylvania, National Association, Pittsburgh .....	Trust (Non-Deposit)	November 13	
<b>Virginia</b>			
Old Point Trust & Financial Services, National Association, Newport News .....	Trust (Non-Deposit)	October 27	

**New, full-service national bank charters issued,  
July 1 to December 31, 1998**

Title and location	Charter number	Date opened
<b>California</b>		
Santa Clara Valley Bank, National Association, Santa Paula .....	23642	December 1
Canyon National Bank, Palm Springs .....	23561	July 10
National Business Bank, Torrance .....	23179	November 3
<b>Delaware</b>		
Sun National Bank, Delaware, Wilmington .....	23728	December 18
<b>District of Columbia</b>		
City First Bank of D.C., National Association, Washington .....	22968	November 24
<b>Florida</b>		
Community Bank of Naples, National Association, Naples .....	23777	December 31
Landmark Bank, National Association, Fort Lauderdale .....	23658	August 10
<b>Georgia</b>		
Southern National Bank, Marietta .....	23669	December 21
Chattahoochee National Bank, Alpharetta .....	23597	July 27
Atlantic National Bank, Brunswick .....	23563	August 31
Unity National Bank, Cartersville .....	23560	November 30
North Atlanta National Bank, Alpharetta .....	23546	November 16
<b>Illinois</b>		
Associated Bank Illinois, National Association, Rockford .....	23716	November 12
<b>Kentucky</b>		
PRP National Bank, Pleasure Ridge Park .....	23641	September 1
<b>Minnesota</b>		
Lakeland National Bank, Lino Lakes .....	23602	November 9
<b>New Mexico</b>		
Bank of Albuquerque, National Association, Albuquerque .....	23742	December 4
<b>North Carolina</b>		
Alamance National Bank, Graham .....	23544	September 14
<b>Oklahoma</b>		
Bank South, National Association, Tulsa .....	23564	July 2
F&M Bank, National Association, Yukon .....	23348	August 10
<b>South Carolina</b>		
Bank of Anderson, National Association, Anderson .....	23656	September 3
FirstBank of the Midlands, National Association, Columbia .....	23609	September 1
Florence National Bank, Florence .....	23550	July 6
<b>Tennessee</b>		
Mountain National Bank, Sevierville .....	23631	November 23
<b>Texas</b>		
First National Bank of Midland, Midland .....	23681	November 17
Republic National Bank, Houston .....	23675	November 13
First Independent National Bank, Plano .....	23447	September 3
CompuBank, National Association, Houston .....	23187	July 8
<b>Virginia</b>		
Virginia National Bank, Charlottesville .....	23616	July 29

**New, limited-purpose national bank charters issued,  
July 1 to December 31, 1998**

Title and location	Charter number	Date opened
<b>Illinois</b> Wintrust Asset Management Company, National Association, Lake Forest .....	23690	September 30
<b>Minnesota</b> United Trust Company National Association, Eagan .....	23624	July 31
<b>Ohio</b> Granite National Bank, Bowling Green .....	23585	August 1
<b>Oklahoma</b> InvesTrust, National Association, Oklahoma City .....	23623	August 20
<b>Texas</b> CrediCard National Bank, Olmos Park .....	23401	August 10



**State-chartered banks converted to full-service national banks,  
July 1 to December 31, 1998**

Title and location	Effective date	Total assets
<b>Delaware</b>		
First USA Bank, National Association (23649) conversion of First USA Bank, Wilmington .....	July 1	1,174,847,000
<b>Iowa</b>		
The First National Bank of Cedar Falls (23640) conversion of Farmers State Bank, Plainfield .....	August 6	27,265,000
<b>Kentucky</b>		
Farmers Bank, National Association (23688) conversion of Farmers Bank & Trust Company, Henderson .....	July 31	216,834,000
<b>Missouri</b>		
Mercantile Bank of Memphis National Association (23783) conversion of Mercantile Bank of Memphis, Memphis .....	December 11	64,307,000
<b>Nebraska</b>		
Midwest Bank National Association (23797) conversion of Cones State Bank, Pierce .....	December 30	44,028,000
<b>New Mexico</b>		
Community First National Bank (23691) conversion of Western Bank, Las Cruces .....	July 20	167,860,000
<b>Utah</b>		
Community First National Bank (23725) conversion of Guardian State Bank, Salt Lake City .....	September 8	100,978,000
<b>Washington</b>		
Washington State Bank, National Association (23709) conversion of Washington State Bank, Federal Way .....	October 1	38,000,000
<b>Wisconsin</b>		
Norwest Bank Hudson, National Association (23750) conversion of MidAmerica Bank Hudson, Hudson .....	October 17	50,957,000
<b>Oregon</b>		
U.S. Bank National Association OR (23714) conversion of First State Bank of Oregon, Canby .....	September 15	5,197,000

**Other institution converted to limited-purpose national bank,  
July 1 to December 31, 1998**

Title and location	Effective date	Total assets
<b>Vermont</b> VNB National Trust Company (23531) conversion of VNB Trust Company, Brattleboro .....	July 10	244,779,000

**National banks merged out of the national banking system,  
July 1 to December 31, 1998**

Title and location	Charter number	Effective date
<b>Alabama</b>		
The Commercial National Bank of Demopolis, Demopolis .....	10035	December 16
The City National Bank of Sylacauga, Sylacauga .....	10879	October 31
<b>Arkansas</b>		
The First National Bank of Conway, Conway .....	13719	October 9
First Commercial Bank, National Association, Little Rock .....	13949	November 6
First Commercial Trust Company, National Association, Little Rock .....	22207	September 18
Morrilton Security Bank National Association, Morrilton .....	18223	October 9
First National Bank of Russellville, Russellville .....	16272	October 9
State First National Bank, Texarkana .....	07138	August 28
<b>California</b>		
First Pacific National Bank, Escondido .....	17280	June 22
First Bank, National Association, Palm Desert .....	20255	September 14
<b>Delaware</b>		
Beneficial National Bank, Wilmington .....	17539	June 30
<b>Florida</b>		
Commercial National Bank, Daytona Beach .....	18132	August 12
<b>Georgia</b>		
Bainbridge National Bank, Bainbridge .....	22269	August 31
<b>Illinois</b>		
The Citizens National Bank of Toluca, Toluca .....	11333	July 1
Beverly National Bank, Wilmington .....	00177	July 1
<b>Kentucky</b>		
NationsBank of Kentucky, National Association, Hopkinsville .....	22566	August 21
Banterra Bank, National Association, Paducah .....	22941	September 11
<b>Maryland</b>		
Capital Bank, National Association, Rockville .....	16338	November 19
<b>Massachusetts</b>		
Woburn National Bank, Woburn .....	07550	August 13
<b>Nebraska</b>		
First National Bank, Lincoln .....	17515	August 28
<b>New Jersey</b>		
Community National Bank of New Jersey, Westmont .....	21119	August 14
<b>Oklahoma</b>		
Exchange National Bank and Trust Company, Ardmore .....	11093	October 15
AmQuest Bank, National Association, Duncan .....	12067	November 13
<b>Pennsylvania</b>		
Carnegie Bank, National Association, Langhorne .....	22217	July 31
Regent National Bank, Philadelphia .....	18755	July 30
The Peoples National Bank of Rural Valley, Rural Valley .....	13908	October 23
<b>South Carolina</b>		
Bank of Charleston, National Association, Charleston .....	21994	October 16
Bank of Columbia, National Association, Columbia .....	21542	October 16
First National Bank of Pickens County, Easley .....	14625	September 29
First National South, Marion .....	10085	November 20

### National banks merged out of the national banking system (continued)

Title and location	Charter number	Date opened
<b>Tennessee</b>		
First Commercial Bank, National Association of Memphis, Memphis .....	23608	August 14
<b>Texas</b>		
Humble National Bank, Humble .....	16875	August 24
Kilgore First National Bank, Kilgore .....	12698	September 11
Longview National Bank, Longview .....	12411	September 11
Lufkin National Bank, Lufkin .....	22628	September 11
The Stone Fort National Bank of Nacogdoches, Nacogdoches .....	06627	September 11
The First National Bank of Palestine, Palestine .....	03694	September 11
State First National Bank, Texarkana .....	16731	August 28
Tyler Bank and Trust, National Association, Tyler .....	22629	September 11
<b>Washington</b>		
First National Bank of Port Orchard, Port Orchard .....	18750	October 15
<b>West Virginia</b>		
First National Bank of Chester, Chester .....	15773	July 18
One Valley Bank of Ronceverte, National Association, Ronceverte .....	06226	September 25
<b>Wisconsin</b>		
Johnson Bank, National Association, Janesville .....	00749	October 23
Associated Bank Portage, National Association, Portage .....	04234	March 19
<b>Wyoming</b>		
First National Bank, Worland .....	14841	June 20

**National banks converted out of the national banking system,  
July 1 to December 31, 1998**

Title and location	Effective date	Total assets
<b>Arkansas</b>		
One National Bank, Little Rock (14818) .....	December 17	150,086,000
<b>California</b>		
East County Bank, National Association, Antioch (20944) .....	October 9	72,928,000
Metro Commerce Bank, National Association, San Rafael (21982) .....	July 24	157,022,000
Valencia National Bank, Valencia (21277) .....	September 1	129,000,000
<b>Illinois</b>		
The National Bank of Monmouth, Monmouth (04400) .....	October 30	101,168,000
<b>Maryland</b>		
First United National Bank & Trust, Oakland (05623) .....	July 15	587,795,000
<b>Michigan</b>		
The Dart National Bank of Mason, Mason (12697) .....	July 2	148,376,000
<b>Oklahoma</b>		
State Bank & Trust, Tulsa (18368) .....	December 1	493,289,000
<b>Pennsylvania</b>		
United States National Bank in Johnstown, Johnstown (13781) .....	October 1	1,239,561,000
<b>Texas</b>		
Sutton County National Bank, Sonora (17585) .....	November 13	25,000,000

**Federal branches and agencies of foreign banks in operation,  
July 1 to December 31, 1998**

	In operation July 1, 1998	Opened July 1- December 31	Closed July 1- December 31	In operation December 31, 1998
<b>Federal branches</b>				
California .....	3	0	1	2
Connecticut .....	1	0	0	1
District of Columbia .....	1	0	0	1
New York .....	44	0	2	42
Washington .....	1	0	0	1
<b>Limited federal branches</b>				
California .....	8	0	0	8
District of Columbia .....	2	0	0	2
New York .....	4	0	1	3
<b>Federal agency</b>				
Illinois .....	1	0	0	1
<b>Total United States</b> .....	65	0	4	61



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# Tables on the Financial Performance of National Banks

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	<i>Page</i>
Assets, liabilities, and capital accounts of national banks, December 31, 1997 and December 31, 1998 .....	213
Quarterly income and expenses of national banks, fourth quarter 1997 and fourth quarter 1998 .....	214
Year-to-date income and expenses of national banks, through December 31, 1997 and through December 31, 1998 .....	215
Assets of national banks by asset size, December 31, 1998 .....	216
Past-due and nonaccrual loans and leases of national banks by asset size, December 31, 1998 .....	217
Liabilities of national banks by asset size, December 31, 1998 .....	218
Off-balance-sheet items of national banks by asset size, December 31, 1998 .....	219
Quarterly income and expenses of national banks by asset size, fourth quarter 1998 .....	220
Year-to-date income and expenses of national banks by asset size, through December 31, 1998 .....	221
Quarterly net loan and lease losses of national banks by asset size, fourth quarter 1998 .....	222
Year-to-date net loan and lease losses of national banks by asset size, through December 31, 1998 .....	223
Number of national banks by state and asset size, December 31, 1998 .....	224
Total assets of national banks by state and asset size, December 31, 1998 .....	225

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





**Assets, liabilities, and capital accounts of national banks**  
**December 31, 1997 and December 31, 1998**  
(Dollar figures in millions)

	December 31, 1997	December 31, 1998	Change December 31, 1997-December 31, 1998 fully consolidated	
			Amount	Percent
<b>Number of institutions</b>	<b>2,597</b>	<b>2,458</b>	<b>(139)</b>	<b>(5.35)</b>
<b>Total assets</b> .....	<b>\$2,893,910</b>	<b>\$3,183,032</b>	<b>\$289,121</b>	<b>9.99</b>
<b>Cash and balances due from depositories</b> .....	231,720	222,132	(9,588)	(4.14)
Noninterest-bearing balances, currency and coin ...	153,968	156,913	2,945	1.91
Interest bearing balances .....	77,752	65,219	(12,533)	(16.12)
<b>Securities</b> .....	<b>452,118</b>	<b>515,975</b>	<b>63,858</b>	<b>14.12</b>
Held-to-maturity securities, amortized cost .....	69,438	56,326	(13,112)	(18.88)
Available-for-sale securities, fair value .....	382,680	459,649	76,970	20.11
<b>Federal funds sold and securities purchased</b> .....	<b>106,784</b>	<b>123,348</b>	<b>16,564</b>	<b>15.51</b>
<b>Net loans and leases</b> .....	<b>1,805,619</b>	<b>1,978,912</b>	<b>173,293</b>	<b>9.60</b>
Total loans and leases .....	1,840,484	2,015,763	175,278	9.52
Loans and leases, gross .....	1,842,696	2,017,815	175,119	9.50
Less: Unearned income .....	2,212	2,053	(159)	(7.20)
Less: Reserve for losses .....	34,865	36,850	1,986	5.70
<b>Assets held in trading account</b> .....	<b>93,469</b>	<b>99,202</b>	<b>5,733</b>	<b>6.13</b>
<b>Other real estate owned</b> .....	<b>2,112</b>	<b>1,833</b>	<b>(279)</b>	<b>(13.23)</b>
<b>Intangible assets</b> .....	<b>49,615</b>	<b>65,356</b>	<b>15,741</b>	<b>31.73</b>
<b>All other assets</b> .....	<b>152,474</b>	<b>176,274</b>	<b>23,800</b>	<b>15.61</b>
<b>Total liabilities and equity capital</b> .....	<b>2,893,910</b>	<b>3,183,032</b>	<b>289,121</b>	<b>9.99</b>
Deposits in domestic offices .....	1,685,316	1,785,765	100,450	5.96
Deposits in foreign offices .....	319,551	352,090	32,539	10.18
<b>Total deposits</b> .....	<b>2,004,867</b>	<b>2,137,855</b>	<b>132,988</b>	<b>6.63</b>
Noninterest-bearing deposits .....	417,630	442,864	25,234	6.04
Interest-bearing deposits .....	1,587,236	1,694,991	107,754	6.79
<b>Federal funds purchased and securities sold</b> .....	<b>241,961</b>	<b>267,281</b>	<b>25,320</b>	<b>10.46</b>
<b>Demand notes issued to U.S. Treasury</b> .....	<b>14,157</b>	<b>6,746</b>	<b>(7,411)</b>	<b>(52.35)</b>
<b>Other borrowed money</b> .....	<b>199,283</b>	<b>262,302</b>	<b>63,019</b>	<b>31.62</b>
With remaining maturity of one year or less .....	125,971	164,237	38,266	30.38
With remaining maturity of more than one year ...	73,311	98,065	24,753	33.76
<b>Trading liabilities less revaluation losses</b> .....	<b>15,274</b>	<b>17,854</b>	<b>2,580</b>	<b>16.89</b>
<b>Subordinated notes and debentures</b> .....	<b>43,133</b>	<b>53,068</b>	<b>9,935</b>	<b>23.03</b>
<b>All other liabilities</b> .....	<b>130,273</b>	<b>163,744</b>	<b>33,471</b>	<b>25.69</b>
Trading liabilities revaluation losses .....	51,800	60,009	8,209	15.85
Other .....	78,473	103,734	25,262	32.19
<b>Total equity capital</b> .....	<b>244,964</b>	<b>274,182</b>	<b>29,218</b>	<b>11.93</b>
Perpetual preferred stock .....	501	466	(36)	(7.12)
Common stock .....	17,784	17,249	(536)	(3.01)
Surplus .....	120,683	140,359	19,675	16.30
Net undivided profits and capital reserves .....	106,896	117,000	10,104	9.45
Cumulative foreign currency translation adjustment ...	(900)	(891)	9	NM

NM indicates calculated percent change is not meaningful.

**Quarterly income and expenses of national banks**  
**Fourth quarter 1997 and fourth quarter 1998**  
(Dollar figures in millions)

	Fourth quarter 1997	Third quarter 1998	Change	
			Fourth quarter 1997- fourth quarter 1998 fully consolidated	
	Consolidated foreign and domestic	Consolidated foreign and domestic	Amount	Percent
<b>Number of institutions</b>	<b>2,597</b>	<b>2,458</b>	<b>(139)</b>	<b>(5.35)</b>
<b>Net income</b> .....	<b>\$9,362</b>	<b>\$8,822</b>	<b>(\$540)</b>	<b>(5.77)</b>
<b>Net interest income</b> .....	<b>26,951</b>	<b>28,808</b>	<b>1,857</b>	<b>6.89</b>
Total interest income .....	51,611	54,482	2,871	5.56
On loans .....	39,632	41,651	2,019	5.09
From lease financing receivables .....	1,392	1,599	208	14.94
On balances due from depositories .....	1,173	878	(295)	(25.18)
On securities .....	7,162	8,172	1,010	14.09
From assets held in trading account .....	762	804	42	5.50
On federal funds sold and securities repurchased .....	1,489	1,377	(112)	(7.55)
Less: Interest expense .....	24,660	25,674	1,013	4.11
On deposits .....	17,553	17,929	377	2.15
Of federal funds purchased and securities sold .....	2,942	3,136	195	6.62
On demand notes and other borrowed money* .....	3,512	3,743	231	6.59
On subordinated notes and debentures .....	653	862	209	32.04
<b>Less: Provision for losses</b> .....	<b>3,614</b>	<b>3,802</b>	<b>188</b>	<b>5.21</b>
<b>Noninterest income</b> .....	<b>17,312</b>	<b>23,078</b>	<b>5,766</b>	<b>33.31</b>
From fiduciary activities .....	2,081	2,426	344	16.55
Service charges on deposits .....	3,390	3,583	194	5.72
Trading revenue .....	829	900	71	8.60
From interest rate exposures .....	336	218	(118)	(35.07)
From foreign exchange exposures .....	570	617	47	8.24
From equity security and index exposures .....	(62)	73	135	NM
From commodity and other exposures .....	(16)	(9)	7	NM
Total other noninterest income .....	11,011	16,167	5,156	46.83
<b>Gains/losses on securities</b> .....	<b>657</b>	<b>736</b>	<b>80</b>	<b>NM</b>
<b>Less: Noninterest expense</b> .....	<b>27,309</b>	<b>35,724</b>	<b>8,415</b>	<b>30.81</b>
Salaries and employee benefits .....	10,780	12,700	1,920	17.81
Of premises and fixed assets .....	3,378	4,132	754	22.33
Other noninterest expense .....	13,151	18,892	5,741	43.65
<b>Less: Taxes on income before extraordinary items</b>	<b>4,634</b>	<b>4,266</b>	<b>(368)</b>	<b>(7.95)</b>
<b>Income/loss from extraordinary items, net of income taxes</b> .....	<b>(0)</b>	<b>(8)</b>	<b>(8)</b>	<b>19,548.78</b>
<b>Memoranda:</b>				
Net operating income .....	8,937	8,322	(615)	(6.88)
Income before taxes and extraordinary items .....	13,997	13,097	(900)	(6.43)
Income net of taxes before extraordinary items .....	9,362	8,830	(532)	(5.68)
Cash dividends declared .....	11,260	7,284	(3,976)	(35.31)
Net charge-offs to loan and lease reserve .....	3,456	3,922	466	13.49
Charge-offs to loan and lease reserve .....	4,591	4,886	295	6.43
Less: Recoveries credited to loan and lease reserve .....	1,135	964	(171)	(15.07)

\* Includes mortgage indebtedness

NM indicates calculated percent change is not meaningful.

**Year-to-date income and expenses of national banks**  
**Through December 31, 1997 and through December 31, 1998**  
(Dollar figures in millions)

	December 31, 1997	December 31, 1998	Change	
			December 31, 1997- December 31, 1998 fully consolidated	
	Consolidated foreign and domestic	Consolidated foreign and domestic	Amount	Percent
<b>Number of institutions</b>	<b>2,597</b>	<b>2,458</b>	<b>(139)</b>	<b>(5.35)</b>
<b>Net income</b>	<b>\$35,783</b>	<b>\$37,642</b>	<b>\$1,859</b>	<b>5.20</b>
<b>Net interest income</b>	<b>106,641</b>	<b>110,997</b>	<b>4,356</b>	<b>4.08</b>
Total interest income	200,281	214,018	13,737	6.86
On loans	155,569	164,587	9,018	5.80
From lease financing receivables	4,858	6,092	1,233	25.38
On balances due from depositories	3,728	3,566	(162)	(4.35)
On securities	27,544	30,873	3,329	12.09
From assets held in trading account	2,977	3,301	324	10.88
On federal funds sold and securities repurchased	5,605	5,600	(5)	(0.08)
Less: Interest expense	93,640	103,021	9,380	10.02
On deposits	67,063	71,693	4,631	6.91
Of federal funds purchased and securities sold	11,086	12,397	1,311	11.83
On demand notes and other borrowed money*	12,985	15,681	2,697	20.77
On subordinated notes and debentures	2,508	3,249	742	29.58
<b>Less: Provision for losses</b>	<b>13,065</b>	<b>15,273</b>	<b>2,209</b>	<b>16.90</b>
<b>Noninterest income</b>	<b>65,428</b>	<b>81,386</b>	<b>15,958</b>	<b>24.39</b>
From fiduciary activities	7,991	9,112	1,121	14.03
Service charges on deposits	12,853	13,703	850	6.61
Trading revenue	3,763	3,603	(160)	(4.25)
From interest rate exposures	1,637	916	(721)	(44.05)
From foreign exchange exposures	2,077	2,445	368	17.72
From equity security and index exposures	40	227	187	464.05
From commodity and other exposures	9	15	6	66.20
Total other noninterest income	40,822	54,969	14,147	34.66
<b>Gains/losses on securities</b>	<b>1,207</b>	<b>2,314</b>	<b>1,106</b>	<b>91.60</b>
<b>Less: Noninterest expense</b>	<b>104,682</b>	<b>122,572</b>	<b>17,890</b>	<b>17.09</b>
Salaries and employee benefits	41,591	46,475	4,883	11.74
Of premises and fixed assets	13,239	14,754	1,516	11.45
Other noninterest expense	49,852	61,343	11,491	23.05
<b>Less: Taxes on income before extraordinary items</b>	<b>19,755</b>	<b>19,728</b>	<b>(27)</b>	<b>(0.14)</b>
<b>Income/loss from extraordinary items, net of income taxes</b>	<b>8</b>	<b>518</b>	<b>510</b>	<b>NM</b>
<b>Memoranda:</b>				
Net operating income	34,993	35,582	589	1.68
Income before taxes and extraordinary items	55,530	56,852	1,322	2.38
Income net of taxes before extraordinary items	35,775	37,124	1,349	3.77
Cash dividends declared	28,573	25,388	(3,185)	(11.15)
Net charge-offs to loan and lease reserve	12,661	14,482	1,821	14.38
Charge-offs to loan and lease reserve	16,885	18,383	1,498	8.87
Less: Recoveries credited to loan and lease reserve	4,223	3,901	(323)	(7.64)

\* Includes mortgage indebtedness

NM indicates calculated percent change is not meaningful.

**Assets of national banks by asset size**  
**December 31, 1998**  
(Dollar figures in millions)

	All national banks	National banks				Memoranda: All commercial banks
		Less than \$ 100 million	\$ 100 million to \$1 billion	\$1 billion to \$10 billion	Greater than \$10 billion	
<b>Number of institutions reporting</b>	<b>2,458</b>	<b>1,269</b>	<b>998</b>	<b>148</b>	<b>43</b>	<b>8,774</b>
<b>Total assets</b>	<b>\$3,183,032</b>	<b>\$63,476</b>	<b>\$258,938</b>	<b>\$465,903</b>	<b>\$2,394,715</b>	<b>\$5,440,943</b>
Cash and balances due from	222,132	3,741	12,813	28,842	176,736	356,611
Securities	515,975	17,026	70,102	94,592	334,254	979,654
Federal funds sold and securities purchased	123,348	4,858	11,574	20,689	86,227	278,177
<b>Net loans and leases</b>	<b>1,978,912</b>	<b>35,064</b>	<b>152,743</b>	<b>287,739</b>	<b>1,503,367</b>	<b>3,181,281</b>
Total loans and leases	2,015,763	35,540	155,036	294,932	1,530,254	3,238,559
Loans and leases, gross	2,017,815	35,677	155,402	295,036	1,531,701	3,242,603
Less: Unearned income	2,053	136	366	104	1,446	4,043
Less: Reserve for losses	36,850	477	2,293	7,193	26,887	57,279
Assets held in trading account	99,202	5	148	946	98,103	285,092
Other real estate owned	1,833	71	229	185	1,348	3,148
Intangible assets	65,356	212	1,527	10,889	52,728	80,159
All other assets	282,449	4,336	9,955	18,243	249,915	427,298
<b>Gross loans and leases by type:</b>						
<b>Loans secured by real estate</b>	<b>764,811</b>	<b>20,029</b>	<b>92,777</b>	<b>119,698</b>	<b>532,307</b>	<b>1,345,418</b>
1-4 family residential mortgages	381,470	9,914	43,560	60,447	267,549	668,610
Home equity loans	66,101	425	3,945	9,178	52,553	96,671
Multifamily residential mortgages	23,203	455	2,938	4,063	15,747	42,697
Commercial RE loans	200,452	5,579	31,052	33,747	130,074	370,996
Construction RE loans	56,260	1,418	7,524	10,600	36,717	106,715
Farmland loans	10,930	2,238	3,734	1,484	3,474	29,095
RE loans from foreign offices	26,396	0	25	179	26,192	30,635
<b>Commercial and industrial loans</b>	<b>583,928</b>	<b>6,107</b>	<b>28,150</b>	<b>54,010</b>	<b>495,662</b>	<b>898,768</b>
<b>Loans to individuals</b>	<b>386,628</b>	<b>5,205</b>	<b>24,520</b>	<b>103,085</b>	<b>253,817</b>	<b>571,119</b>
Credit cards	176,609	282	5,000	67,443	103,884	228,986
Installment loans	210,019	4,923	19,521	35,642	149,933	342,133
All other loans and leases	282,449	4,336	9,955	18,243	249,915	427,298
<b>Securities by type:</b>						
<b>U.S. Treasury securities</b>	<b>55,162</b>	<b>2,856</b>	<b>9,381</b>	<b>9,366</b>	<b>33,558</b>	<b>116,184</b>
<b>Mortgage-backed securities</b>	<b>268,258</b>	<b>3,990</b>	<b>22,802</b>	<b>54,351</b>	<b>187,115</b>	<b>470,201</b>
Pass-through securities	183,200	2,682	15,115	38,836	126,567	311,065
Collateralized mortgage obligations	85,058	1,308	7,687	15,515	60,548	159,136
<b>Other securities</b>	<b>192,556</b>	<b>10,181</b>	<b>37,920</b>	<b>30,875</b>	<b>113,581</b>	<b>393,269</b>
Other U.S. government securities	66,933	6,596	21,958	16,657	21,721	170,993
State and local government securities	38,892	2,901	11,797	7,779	16,416	86,830
Other debt securities	68,204	365	2,443	3,205	62,192	103,212
Equity securities	18,527	319	1,722	3,233	13,252	32,235
<b>Memoranda:</b>						
Agricultural production loans	21,169	3,793	5,286	3,092	8,998	46,251
Pledged securities	236,442	5,680	29,286	41,433	160,044	431,837
Book value of securities	512,558	16,913	69,547	93,886	332,212	971,086
Available-for-sale securities	456,232	13,002	54,405	79,571	309,255	824,386
Held-to-maturity securities	56,326	3,911	15,142	14,315	22,957	146,701
Market value of securities	516,754	17,080	70,314	94,723	334,636	981,480
Available-for-sale securities	459,649	13,115	54,960	80,277	311,297	832,953
Held-to-maturity securities	57,104	3,965	15,354	14,445	23,340	148,527

**Past-due and nonaccrual loans and leases of national banks by asset size**  
**December 31, 1998**  
(Dollar figures in millions)

	All national banks	National banks				Memoranda: All comercial banks
		Less than \$ 100 million	\$ 100 million to \$1 billion	\$1 billion to \$10 billion	Greater than \$10 billion	
<b>Number of institutions reporting</b>	<b>2,458</b>	<b>1,269</b>	<b>998</b>	<b>148</b>	<b>43</b>	<b>8,774</b>
<b>Loans and leases past due 30–89 days</b>	<b>\$25,622</b>	<b>\$544</b>	<b>\$2,087</b>	<b>\$4,892</b>	<b>\$18,099</b>	<b>\$40,880</b>
Loans secured by real estate	10,153	274	1,040	1,509	7,331	16,943
1-4 family residential mortgages	5,723	171	630	759	4,163	9,620
Home equity loans	643	4	33	100	507	950
Multifamily residential mortgages	219	3	18	34	165	373
Commercial RE loans	2,037	57	238	339	1,403	3,664
Construction RE loans	1,023	19	81	251	672	1,603
Farmland loans	141	20	39	26	56	344
RE loans from foreign offices	366	0	0	0	366	389
<b>Commercial and industrial loans</b>	<b>4,707</b>	<b>147</b>	<b>438</b>	<b>656</b>	<b>3,466</b>	<b>7,879</b>
<b>Loans to individuals</b>	<b>9,451</b>	<b>121</b>	<b>550</b>	<b>2,573</b>	<b>6,207</b>	<b>13,887</b>
Credit cards	4,467	7	160	1,671	2,628	5,917
Installment loans	4,984	114	389	902	3,579	7,970
<b>All other loans and leases</b>	<b>1,312</b>	<b>3</b>	<b>60</b>	<b>154</b>	<b>1,096</b>	<b>2,170</b>
<b>Loans and leases past due 90+ days</b>	<b>7,234</b>	<b>124</b>	<b>419</b>	<b>1,873</b>	<b>4,819</b>	<b>10,571</b>
Loans secured by real estate	1,786	58	178	297	1,254	3,032
1-4 family residential mortgages	1,149	31	106	188	824	1,860
Home equity loans	133	1	7	38	87	197
Multifamily residential mortgages	25	0	3	5	18	58
Commercial RE loans	306	13	49	43	202	573
Construction RE loans	122	4	6	20	92	214
Farmland loans	30	8	8	3	11	101
RE loans from foreign offices	22	0	0	0	22	29
<b>Commercial and industrial loans</b>	<b>608</b>	<b>44</b>	<b>96</b>	<b>73</b>	<b>396</b>	<b>1,206</b>
<b>Loans to individuals</b>	<b>4,685</b>	<b>22</b>	<b>136</b>	<b>1,471</b>	<b>3,056</b>	<b>6,034</b>
Credit cards	3,338	4	83	1,208	2,043	3,967
Installment loans	1,347	18	53	263	1,013	2,067
<b>All other loans and leases</b>	<b>154</b>	<b>0</b>	<b>10</b>	<b>32</b>	<b>112</b>	<b>298</b>
<b>Nonaccrual loans and leases</b>	<b>12,284</b>	<b>260</b>	<b>892</b>	<b>1,180</b>	<b>9,952</b>	<b>20,682</b>
Loans secured by real estate	5,726	124	453	617	4,532	9,203
1-4 family residential mortgages	2,473	48	186	282	1,957	3,995
Home equity loans	138	1	6	12	119	216
Multifamily residential mortgages	180	2	8	27	142	303
Commercial RE loans	1,725	39	178	231	1,277	2,945
Construction RE loans	328	8	34	48	238	647
Farmland loans	164	25	39	18	81	298
RE loans from foreign offices	718	0	0	0	717	797
<b>Commercial and industrial loans</b>	<b>4,392</b>	<b>118</b>	<b>328</b>	<b>328</b>	<b>3,619</b>	<b>7,667</b>
<b>Loans to individuals</b>	<b>1,441</b>	<b>16</b>	<b>76</b>	<b>174</b>	<b>1,176</b>	<b>2,665</b>
Credit cards	307	0	32	108	168	1,118
Installment loans	1,134	16	44	66	1,008	1,547
<b>All other loans and leases</b>	<b>724</b>	<b>2</b>	<b>35</b>	<b>61</b>	<b>626</b>	<b>1,147</b>

**Liabilities of national banks by asset size**  
**December 31, 1998**  
(Dollar figures in millions)

	All national banks	National banks				Memoranda: All commercial banks
		Less than \$ 100 million	\$ 100 million to \$1 billion	\$1 billion to \$10 billion	Greater than \$10 billion	
<b>Number of institutions reporting</b>	<b>2,458</b>	<b>1,269</b>	<b>998</b>	<b>148</b>	<b>43</b>	<b>8,774</b>
<b>Total liabilities and equity capital</b> .....	<b>\$3,183,032</b>	<b>\$63,476</b>	<b>\$258,938</b>	<b>\$465,903</b>	<b>\$2,394,715</b>	<b>\$5,440,943</b>
Deposits in domestic offices .....	\$1,785,765	\$54,121	\$212,387	\$297,419	\$1,221,839	\$3,109,500
Deposits in foreign offices .....	352,090	0	438	3,616	348,036	572,022
<b>Total deposits</b> .....	<b>2,137,855</b>	<b>54,121</b>	<b>212,825</b>	<b>301,034</b>	<b>1,569,874</b>	<b>3,681,523</b>
Noninterest to earnings .....	442,864	8,989	35,861	64,084	333,931	718,506
Interest bearing .....	1,694,991	45,132	176,964	236,951	1,235,944	2,963,016
<b>Other borrowed funds</b> .....	<b>554,183</b>	<b>1,637</b>	<b>18,495</b>	<b>100,629</b>	<b>433,422</b>	<b>903,015</b>
<b>Subordinated notes and debentures</b> .....	<b>53,068</b>	<b>8</b>	<b>146</b>	<b>4,570</b>	<b>48,345</b>	<b>72,787</b>
<b>All other liabilities</b> .....	<b>163,744</b>	<b>724</b>	<b>3,018</b>	<b>12,794</b>	<b>147,208</b>	<b>321,394</b>
<b>Equity capital</b> .....	<b>274,182</b>	<b>6,986</b>	<b>24,454</b>	<b>46,877</b>	<b>195,866</b>	<b>462,225</b>
<b>Total deposits by depositor:</b>						
Individuals and corporations .....	1,911,730	49,130	194,356	278,979	1,389,265	3,280,613
U.S., state, and local governments .....	77,164	4,172	14,685	13,392	44,915	145,978
Depositories in the U.S. ....	68,421	408	2,214	5,619	60,180	91,525
Foreign banks and governments .....	66,870	1	155	1,192	65,523	136,338
Certified and official checks .....	10,052	410	1,415	1,822	6,405	18,664
All other foreign office deposits .....	3,617	0	0	31	3,586	8,405
<b>Domestic deposits by depositor:</b>						
Individuals and corporations .....	1,662,617	49,130	194,063	275,979	1,143,445	2,888,760
U.S., state, and local governments .....	77,164	4,172	14,685	13,392	44,915	145,978
Depositories in the U.S. ....	32,581	408	2,174	5,608	24,391	47,756
Foreign banks and governments .....	4,129	1	49	619	3,460	9,203
Certified and official checks .....	9,274	410	1,415	1,822	5,627	17,803
<b>Foreign deposits by depositor:</b>						
Individuals and corporations .....	249,113	0	293	3,000	245,820	391,852
Depositories in the U.S. ....	35,840	0	40	12	35,789	43,770
Foreign banks and governments .....	62,741	0	105	573	62,063	127,135
Certified and official checks .....	778	0	0	0	778	861
All other deposits .....	3,617	0	0	31	3,586	8,405
<b>Deposits in domestic offices by type:</b>						
<b>Transaction deposits</b> .....	<b>442,800</b>	<b>17,149</b>	<b>58,201</b>	<b>68,519</b>	<b>298,932</b>	<b>754,287</b>
Demand deposits .....	366,606	8,977	34,523	55,587	267,518	588,151
NOW accounts .....	74,766	7,983	23,263	12,783	30,737	163,236
<b>Savings deposits</b> .....	<b>737,671</b>	<b>10,893</b>	<b>58,903</b>	<b>123,267</b>	<b>544,608</b>	<b>1,184,652</b>
Money market deposit accounts .....	518,885	5,604	34,862	75,174	403,244	796,403
Other savings deposits .....	218,787	5,289	24,040	48,093	141,364	388,249
<b>Time deposits</b> .....	<b>605,294</b>	<b>26,078</b>	<b>95,283</b>	<b>105,633</b>	<b>378,299</b>	<b>1,170,561</b>
Small time deposits .....	402,326	18,922	66,504	70,913	245,988	749,237
Large time deposits .....	202,968	7,157	28,780	34,720	132,311	421,324

**Off-balance-sheet items of national banks by asset size**  
**December 31, 1998**  
(Dollar figures in millions)

	All national banks	National banks				Memoranda: All comercial banks
		Less than \$ 100 million	\$ 100 million to \$1 billion	\$1 billion to \$10 billion	Greater than \$10 billion	
<b>Number of institutions reporting</b>	<b>2,458</b>	<b>1,269</b>	<b>998</b>	<b>148</b>	<b>43</b>	<b>8,774</b>
<b>Unused commitments</b> .....	<b>\$2,733,818</b>	<b>\$73,679</b>	<b>\$250,347</b>	<b>\$632,619</b>	<b>\$1,777,173</b>	<b>\$3,728,174</b>
Home equity lines .....	85,164	349	4,006	11,054	69,756	119,241
Credit card lines .....	1,634,745	69,243	221,688	556,055	787,759	2,058,050
Commercial RE, construction and land .....	81,190	964	6,355	11,092	62,779	133,462
All other unused commitments .....	932,718	3,123	18,298	54,418	856,879	1,417,421
<b>Letters of credit:</b>						
<b>Standby letters of credit</b> .....	<b>134,573</b>	<b>153</b>	<b>1,587</b>	<b>8,148</b>	<b>124,685</b>	<b>216,186</b>
Financial letters of credit .....	106,791	101	990	6,486	99,214	176,321
Performance letters of credit .....	27,782	53	597	1,662	25,471	39,865
<b>Commercial letters of credit</b> .....	<b>17,592</b>	<b>32</b>	<b>594</b>	<b>685</b>	<b>16,281</b>	<b>26,759</b>
<b>Securities borrowed and lent:</b>						
Securities borrowed .....	12,756	31	471	5,454	6,799	23,786
Securities lent .....	52,561	5	1,263	8,040	43,253	308,137
<b>Financial assets transferred with recourse:</b>						
Mortgages- outstanding principal balance .....	25,678	35	222	4,722	20,700	42,975
Mortgages- amount of recourse exposure .....	5,058	34	194	657	4,174	10,216
All other- outstanding principal balance .....	232,395	1	825	82,515	149,055	273,990
All other- amount of recourse exposure .....	14,456	0	79	5,070	9,307	17,465
<b>Spot foreign exchange contracts</b> .....	<b>164,954</b>	<b>0</b>	<b>2</b>	<b>12</b>	<b>164,939</b>	<b>375,107</b>
<b>Credit derivatives (notional value)</b>						
Reporting bank is the guarantor .....	16,245	0	40	30	16,176	61,230
Reporting bank is the beneficiary .....	35,650	0	0	0	35,650	82,903
<b>Derivative contracts (notional value)</b> .....	<b>10,947,337</b>	<b>502</b>	<b>3,181</b>	<b>51,515</b>	<b>10,892,138</b>	<b>32,999,616</b>
Futures and forward contracts .....	4,266,082	17	190	7,838	4,258,037	10,917,638
Interest rate contracts .....	1,767,990	17	168	7,285	1,760,520	5,514,984
Foreign exchange contracts .....	2,471,950	0	23	553	2,471,375	5,307,388
All other futures and forwards .....	26,143	0	0	0	26,143	95,265
Option contracts .....	2,736,746	485	845	8,548	2,726,867	7,592,405
Interest rate contracts .....	2,041,971	485	841	8,547	2,032,098	5,679,474
Foreign exchange contracts .....	549,807	0	0	1	549,806	1,393,221
All other options .....	144,967	0	4	0	144,963	519,710
Swaps .....	3,892,614	0	2,107	35,099	3,855,408	14,345,440
Interest rate contracts .....	3,723,122	0	2,107	34,416	3,686,600	13,590,378
Foreign exchange contracts .....	149,974	0	0	684	149,290	685,816
All other swaps .....	19,518	0	0	0	19,518	69,246
<b>Memoranda: Derivatives by purpose</b>						
Contracts held for trading .....	10,069,085	417	42	4,905	10,063,721	31,444,662
Contracts not held for trading .....	826,357	86	3,100	46,580	776,592	1,410,822
<b>Memoranda: Derivatives by position</b>						
Held for trading- positive fair value .....	145,042	0	0	29	145,012	504,649
Held for trading- negative fair value .....	145,675	0	0	27	145,647	500,874
Not for trading- positive fair value .....	11,919	0	12	744	11,163	17,437
Not for trading- negative fair value .....	5,316	0	46	191	5,079	9,265



**Quarterly income and expenses of national banks by asset size**  
**Fourth quarter 1998**  
(Dollar figures in millions)

	All national banks	National banks				Memoranda: All commercial banks
		Less than \$ 100 million	\$ 100 million to \$1 billion	\$1 billion to \$10 billion	Greater than \$10 billion	
<b>Number of institutions reporting</b>	<b>2,458</b>	<b>1,269</b>	<b>998</b>	<b>148</b>	<b>43</b>	<b>8,774</b>
<b>Net income</b>	<b>\$8,822</b>	<b>\$167</b>	<b>\$790</b>	<b>\$1,465</b>	<b>\$6,400</b>	<b>\$14,897</b>
<b>Net interest income</b>	<b>28,808</b>	<b>645</b>	<b>2,596</b>	<b>5,095</b>	<b>20,473</b>	<b>47,030</b>
Total interest income	54,482	1,160	4,690	8,755	39,877	91,530
On loans	41,651	839	3,479	6,934	30,399	67,353
From lease financing receivables	1,599	4	26	90	1,480	2,251
On balances due from depositories	878	13	26	42	798	1,596
On securities	8,172	245	1,008	1,420	5,499	14,858
From assets held in trading account	804	0	1	14	789	1,789
On fed. funds sold & securities repurchased	1,377	60	150	255	912	3,681
Less: Interest expense	25,674	515	2,095	3,661	19,403	44,500
On deposits	17,929	492	1,864	2,328	13,245	31,388
Of federal funds purchased & securities sold	3,136	7	105	519	2,505	5,556
On demand notes & other borrowed money*	15,681	87	462	3,099	12,034	26,780
On subordinated notes and debentures	862	0	3	70	790	1,220
<b>Less: Provision for losses</b>	<b>3,802</b>	<b>51</b>	<b>303</b>	<b>1,182</b>	<b>2,266</b>	<b>5,795</b>
<b>Noninterest income</b>	<b>23,078</b>	<b>537</b>	<b>1,300</b>	<b>4,498</b>	<b>16,744</b>	<b>34,678</b>
From fiduciary activities	2,426	4	214	283	1,924	4,925
Service charges on deposits	3,583	80	261	508	2,735	5,186
Trading revenue	900	3	2	4	891	1,956
From interest rate exposures	218	3	2	(5)	219	668
From foreign exchange exposures	617	0	0	3	614	1,205
From equity security and index exposures	73	0	0	4	69	92
From commodity and other exposures	(9)	0	0	2	(11)	64
Total other noninterest income	16,167	449	823	3,701	11,194	22,610
<b>Gains/losses on securities</b>	<b>736</b>	<b>4</b>	<b>21</b>	<b>48</b>	<b>664</b>	<b>1,057</b>
<b>Less: Noninterest expense</b>	<b>35,724</b>	<b>900</b>	<b>2,475</b>	<b>6,202</b>	<b>26,147</b>	<b>54,863</b>
Salaries and employee benefits	12,700	330	1,098	1,648	9,625	21,356
Of premises and fixed assets	4,132	83	307	560	3,183	6,650
Other noninterest expense	18,892	488	1,070	3,994	13,340	26,857
<b>Less: Taxes on income before extraord. items</b>	<b>4,266</b>	<b>67</b>	<b>349</b>	<b>783</b>	<b>3,068</b>	<b>7,203</b>
<b>Income/loss from extraord. items, net of taxes</b>	<b>518</b>	<b>(1)</b>	<b>2</b>	<b>525</b>	<b>(8)</b>	<b>508</b>
<b>Memoranda:</b>						
Net operating income	8,322	164	775	1,437	5,946	14,127
Income before taxes and extraordinary items	13,097	234	1,139	2,256	9,468	22,108
Income net of taxes before extraordinary items	8,830	167	790	1,473	6,400	14,904
Cash dividends declared	7,284	263	726	1,287	5,008	12,687
Net loan and lease losses	3,922	38	209	1,096	2,578	5,765
Charge-offs to loan and lease reserve	4,886	50	262	1,276	3,298	7,175
Less: Recoveries credited to loan & lease resv. ...	964	12	53	180	719	1,410

\* Includes mortgage indebtedness

**Year-to-date income and expenses of national banks by asset size**  
**Through December 31, 1998**  
(Dollar figures in millions)

	All national banks	National banks				Memoranda: All comercial banks
		Less than \$ 100 million	\$ 100 million to \$1 billion	\$1 billion to \$10 billion	Greater than \$10 billion	
<b>Number of institutions reporting</b>	<b>2,458</b>	<b>1,269</b>	<b>998</b>	<b>148</b>	<b>43</b>	<b>8,774</b>
<b>Net income</b>	<b>\$37,642</b>	<b>\$855</b>	<b>\$3,179</b>	<b>\$7,248</b>	<b>\$26,359</b>	<b>\$61,921</b>
<b>Net interest income</b>	<b>110,997</b>	<b>2,626</b>	<b>10,051</b>	<b>19,315</b>	<b>79,005</b>	<b>182,783</b>
Total interest income	214,018	4,691	18,297	33,936	157,093	362,073
On loans	164,587	3,429	13,561	26,936	120,660	264,865
From lease financing receivables	6,092	14	98	364	5,615	8,577
On balances due from depositories	3,566	44	104	236	3,182	6,512
On securities	30,873	981	3,947	5,327	20,617	57,040
From assets held in trading account	3,301	0	4	68	3,229	10,130
On fed. funds sold & securities repurchased	5,600	222	583	1,006	3,789	14,950
Less: Interest expense	103,021	2,065	8,246	14,622	78,088	179,291
On deposits	71,693	1,948	7,357	9,289	53,099	125,290
Of federal funds purchased & securities sold	12,397	29	417	1,963	9,987	22,433
On demand notes & other borrowed money*	15,681	87	462	3,099	12,034	26,780
On subordinated notes and debentures	3,249	1	11	270	2,968	4,788
<b>Less: Provision for losses</b>	<b>15,273</b>	<b>183</b>	<b>862</b>	<b>3,977</b>	<b>10,250</b>	<b>22,209</b>
<b>Noninterest income</b>	<b>81,386</b>	<b>1,885</b>	<b>4,815</b>	<b>15,575</b>	<b>59,112</b>	<b>123,745</b>
From fiduciary activities	9,112	15	814	1,108	7,175	18,518
Service charges on deposits	13,703	311	986	1,887	10,519	19,803
Trading revenue	3,603	11	26	109	3,457	7,683
From interest rate exposures	916	11	25	68	812	2,448
From foreign exchange exposures	2,445	0	1	12	2,432	5,167
From equity security and index exposures	227	0	0	18	209	287
From commodity and other exposures	15	0	0	10	5	66
Total other noninterest income	54,969	1,549	2,989	12,470	37,961	77,741
<b>Gains/losses on securities</b>	<b>2,314</b>	<b>10</b>	<b>54</b>	<b>227</b>	<b>2,022</b>	<b>3,127</b>
<b>Less: Noninterest expense</b>	<b>122,572</b>	<b>3,152</b>	<b>9,412</b>	<b>20,673</b>	<b>89,334</b>	<b>194,047</b>
Salaries and employee benefits	46,475	1,196	4,157	6,098	35,024	79,098
Of premises and fixed assets	14,754	309	1,165	1,970	11,311	24,153
Other noninterest expense	61,343	1,647	4,091	12,605	43,000	90,795
<b>Less: Taxes on income before extraord. items</b>	<b>19,728</b>	<b>329</b>	<b>1,468</b>	<b>3,743</b>	<b>14,187</b>	<b>31,986</b>
<b>Income/loss from extraord. items, net of taxes</b>	<b>518</b>	<b>(1)</b>	<b>2</b>	<b>525</b>	<b>(8)</b>	<b>508</b>
<b>Memoranda:</b>						
Net operating income	35,582	848	3,139	6,566	25,029	59,318
Income before taxes and extraordinary items	56,852	1,185	4,646	10,466	40,555	93,399
Income net of taxes before extraordinary items	37,124	856	3,177	6,723	26,368	61,413
Cash dividends declared	25,388	1,203	1,866	4,975	17,344	41,091
Net loan and lease losses	14,482	139	604	4,135	9,604	20,695
Charge-offs to loan and lease reserve	18,383	192	824	4,898	12,468	26,509
Less: Recoveries credited to loan and lease reserve	3,901	53	220	763	2,865	5,815

\* Includes mortgage indebtedness

**Quarterly net loan and lease losses of national banks by asset size**  
**Fourth quarter 1998**  
(Dollar figures in millions)

	All national banks	National banks				Memoranda: All commercial banks
		Less than \$ 100 million	\$ 100 million to \$1 billion	\$1 billion to \$10 billion	Greater than \$10 billion	
<b>Number of institutions reporting</b>	<b>2,458</b>	<b>1,269</b>	<b>998</b>	<b>148</b>	<b>43</b>	<b>8,774</b>
<b>Net charge-offs to loan and lease reserve</b>	<b>\$3,922</b>	<b>\$38</b>	<b>\$209</b>	<b>\$1,096</b>	<b>\$2,578</b>	<b>\$5,765</b>
<b>Loans secured by real estate</b>	<b>146</b>	<b>4</b>	<b>17</b>	<b>31</b>	<b>95</b>	<b>256</b>
1-4 family residential mortgages	72	2	8	17	46	130
Home equity loans	25	0	1	7	17	31
Multifamily residential mortgages	(2)	0	0	1	(3)	(2)
Commercial RE loans	27	1	7	4	15	58
Construction RE loans	(0)	0	1	1	(2)	11
Farmland loans	1	0	0	0	(0)	4
RE loans from foreign offices	23	0	0	0	23	24
<b>Commercial and industrial loans</b>	<b>789</b>	<b>20</b>	<b>68</b>	<b>67</b>	<b>634</b>	<b>1,378</b>
<b>Loans to individuals</b>	<b>2,827</b>	<b>15</b>	<b>119</b>	<b>980</b>	<b>1,713</b>	<b>3,907</b>
Credit cards	2,124	3	78	884	1,159	2,926
Installment loans	703	12	41	96	554	980
<b>All other loans and leases</b>	<b>159</b>	<b>0</b>	<b>4</b>	<b>18</b>	<b>137</b>	<b>225</b>
<b>Charge-offs to loan and lease reserve</b>	<b>4,886</b>	<b>50</b>	<b>262</b>	<b>1,276</b>	<b>3,298</b>	<b>7,175</b>
<b>Loans secured by real estate</b>	<b>259</b>	<b>5</b>	<b>24</b>	<b>46</b>	<b>183</b>	<b>431</b>
1-4 family residential mortgages	95	3	11	21	60	170
Home equity loans	38	0	1	9	28	46
Multifamily residential mortgages	6	0	0	1	5	9
Commercial RE loans	84	1	10	12	60	148
Construction RE loans	8	0	1	3	4	23
Farmland loans	2	1	1	0	1	9
RE loans from foreign offices	25	0	0	0	25	26
<b>Commercial and industrial loans</b>	<b>959</b>	<b>26</b>	<b>83</b>	<b>89</b>	<b>761</b>	<b>1,669</b>
<b>Loans to individuals</b>	<b>3,423</b>	<b>19</b>	<b>149</b>	<b>1,116</b>	<b>2,139</b>	<b>4,719</b>
Credit cards	2,416	4	91	979	1,343	3,344
Installment loans	1,007	15	58	137	797	1,375
<b>All other loans and leases</b>	<b>245</b>	<b>0</b>	<b>6</b>	<b>25</b>	<b>214</b>	<b>356</b>
<b>Recoveries credited to loan and lease reserve</b>	<b>964</b>	<b>12</b>	<b>53</b>	<b>180</b>	<b>719</b>	<b>1,410</b>
<b>Loans secured by real estate</b>	<b>112</b>	<b>1</b>	<b>7</b>	<b>16</b>	<b>88</b>	<b>175</b>
1-4 family residential mortgages	22	1	3	4	15	40
Home equity loans	13	0	0	1	11	14
Multifamily residential mortgages	9	0	0	1	8	11
Commercial RE loans	57	0	3	8	45	91
Construction RE loans	8	0	0	2	6	12
Farmland loans	2	0	0	0	1	5
RE loans from foreign offices	2	0	0	0	2	2
<b>Commercial and industrial loans</b>	<b>169</b>	<b>6</b>	<b>15</b>	<b>22</b>	<b>127</b>	<b>291</b>
<b>Loans to individuals</b>	<b>596</b>	<b>5</b>	<b>30</b>	<b>135</b>	<b>427</b>	<b>812</b>
Credit cards	292	1	13	95	184	418
Installment loans	304	4	17	40	243	394
<b>All other loans and leases</b>	<b>86</b>	<b>0</b>	<b>2</b>	<b>7</b>	<b>77</b>	<b>131</b>

**Year-to-date net loan and lease losses of national banks by asset size**  
**Through December 31, 1998**  
(Dollar figures in millions)

	All national banks	National banks				Memoranda: All comercial banks
		Less than \$ 100 million	\$ 100 million to \$1 billion	\$1 billion to \$10 billion	Greater than \$10 billion	
<b>Number of institutions reporting</b>	<b>2,458</b>	<b>1,269</b>	<b>998</b>	<b>148</b>	<b>43</b>	<b>8,774</b>
<b>Net charge-offs to loan and lease reserve .....</b>	<b>14,482</b>	<b>139</b>	<b>604</b>	<b>4,135</b>	<b>9,604</b>	<b>20,695</b>
<b>Loans secured by real estate .....</b>	<b>405</b>	<b>6</b>	<b>40</b>	<b>78</b>	<b>281</b>	<b>672</b>
1- 4 family residential mortgages .....	258	3	17	48	189	427
Home equity loans .....	104	0	3	20	81	133
Multifamily residential mortgages .....	16	0	3	(1)	15	20
Commercial RE loans .....	(44)	2	13	12	(72)	7
Construction RE loans .....	(3)	1	3	(1)	(6)	13
Farmland loans .....	3	(0)	0	(0)	3	5
RE loans from foreign offices .....	71	0	0	0	70	67
<b>Commercial and industrial loans .....</b>	<b>2,101</b>	<b>48</b>	<b>157</b>	<b>145</b>	<b>1,751</b>	<b>3,518</b>
<b>Loans to individuals .....</b>	<b>10,938</b>	<b>84</b>	<b>397</b>	<b>3,855</b>	<b>6,602</b>	<b>14,933</b>
Credit cards .....	8,403	52	270	3,474	4,607	11,463
Installment loans .....	2,535	32	127	380	1,995	3,471
<b>All other loans and leases .....</b>	<b>1,039</b>	<b>1</b>	<b>11</b>	<b>57</b>	<b>970</b>	<b>1,572</b>
<b>Charge-offs to loan and lease reserve .....</b>	<b>18,383</b>	<b>192</b>	<b>824</b>	<b>4,898</b>	<b>12,468</b>	<b>26,509</b>
<b>Loans secured by real estate .....</b>	<b>941</b>	<b>12</b>	<b>64</b>	<b>147</b>	<b>718</b>	<b>1,458</b>
1- 4 family residential mortgages .....	349	6	27	66	250	582
Home equity loans .....	146	0	4	25	117	182
Multifamily residential mortgages .....	43	0	4	3	37	59
Commercial RE loans .....	273	4	24	44	201	452
Construction RE loans .....	38	1	4	8	25	77
Farmland loans .....	13	1	2	1	8	25
RE loans from foreign offices .....	79	0	0	0	79	81
<b>Commercial and industrial loans .....</b>	<b>2,813</b>	<b>68</b>	<b>214</b>	<b>252</b>	<b>2,278</b>	<b>4,843</b>
<b>Loans to individuals .....</b>	<b>13,335</b>	<b>111</b>	<b>529</b>	<b>4,418</b>	<b>8,277</b>	<b>18,255</b>
Credit cards .....	9,629	63	336	3,862	5,368	13,246
Installment loans .....	3,706	48	193	555	2,909	5,009
<b>All other loans and leases .....</b>	<b>1,294</b>	<b>1</b>	<b>17</b>	<b>80</b>	<b>1,195</b>	<b>1,953</b>
<b>Recoveries credited to loan and lease reserve .....</b>	<b>3,901</b>	<b>53</b>	<b>220</b>	<b>763</b>	<b>2,865</b>	<b>5,815</b>
<b>Loans secured by real estate .....</b>	<b>537</b>	<b>6</b>	<b>24</b>	<b>69</b>	<b>437</b>	<b>786</b>
1- 4 family residential mortgages .....	91	3	10	17	61	155
Home equity loans .....	43	0	1	5	36	50
Multifamily residential mortgages .....	27	0	0	4	22	39
Commercial RE loans .....	317	2	10	32	273	444
Construction RE loans .....	41	0	1	9	31	64
Farmland loans .....	9	1	1	2	5	19
RE loans from foreign offices .....	8	0	0	0	8	14
<b>Commercial and industrial loans .....</b>	<b>712</b>	<b>20</b>	<b>57</b>	<b>107</b>	<b>528</b>	<b>1,325</b>
<b>Loans to individuals .....</b>	<b>2,397</b>	<b>27</b>	<b>132</b>	<b>563</b>	<b>1,675</b>	<b>3,322</b>
Credit cards .....	1,226	11	66	388	760	1,783
Installment loans .....	1,171	16	66	175	914	1,539
<b>All other loans and leases .....</b>	<b>254</b>	<b>0</b>	<b>6</b>	<b>23</b>	<b>225</b>	<b>381</b>

**Number of national banks by state and asset size  
December 31, 1998**

	All national banks	National banks				Memoranda: All commercial banks
		Less than \$ 100 million	\$ 100 million to \$1 billion	\$1 billion to \$10 billion	Greater than \$10 billion	
<b>All institutions</b>	<b>2,458</b>	<b>1,269</b>	<b>998</b>	<b>148</b>	<b>43</b>	<b>8,774</b>
Alabama .....	29	15	13	0	1	160
Alaska .....	3	1	0	2	0	6
Arizona .....	15	6	4	4	1	43
Arkansas .....	52	19	32	1	0	202
California .....	96	42	47	4	3	336
Colorado .....	63	43	17	3	0	195
Connecticut .....	8	3	5	0	0	28
Delaware .....	17	3	6	5	3	34
District of Columbia .....	6	2	4	0	0	7
Florida .....	84	35	36	13	0	250
Georgia .....	65	29	34	2	0	349
Hawaii .....	1	0	1	0	0	12
Idaho .....	1	0	1	0	0	17
Illinois .....	217	102	100	11	4	745
Indiana .....	38	10	22	5	1	169
Iowa .....	50	31	17	2	0	443
Kansas .....	112	84	26	2	0	393
Kentucky .....	61	31	26	3	1	261
Louisiana .....	20	12	5	1	2	150
Maine .....	5	1	4	0	0	17
Maryland .....	17	4	11	2	0	80
Massachusetts .....	12	4	6	1	1	44
Michigan .....	36	16	18	1	1	165
Minnesota .....	140	82	51	5	2	514
Mississippi .....	18	5	12	1	0	96
Missouri .....	50	26	19	4	1	382
Montana .....	17	13	2	2	0	89
Nebraska .....	95	68	24	3	0	315
Nevada .....	7	2	1	4	0	26
New Hampshire .....	6	1	4	1	0	19
New Jersey .....	25	1	16	7	1	72
New Mexico .....	21	7	11	3	0	58
New York .....	64	22	34	6	2	153
North Carolina .....	11	2	5	1	3	67
North Dakota .....	18	8	8	2	0	114
Ohio .....	97	45	38	9	5	220
Oklahoma .....	117	80	34	3	0	309
Oregon .....	4	1	3	0	0	42
Pennsylvania .....	103	30	65	5	3	197
Rhode Island .....	2	0	0	1	1	7
South Carolina .....	20	12	7	1	0	77
South Dakota .....	22	12	8	1	1	104
Tennessee .....	34	9	18	4	3	204
Texas .....	403	268	125	8	2	799
Utah .....	8	2	3	2	1	50
Vermont .....	11	4	6	1	0	21
Virginia .....	30	7	21	2	0	152
Washington .....	18	13	5	0	0	78
West Virginia .....	30	14	11	5	0	89
Wisconsin .....	58	29	26	3	0	344
Wyoming .....	21	13	6	2	0	52
U.S. territories .....	0	0	0	0	0	18

**Total assets of national banks by state and asset size**  
**December 31, 1998**  
(Dollar figures in millions)

	All national banks	National banks				Memoranda: All commercial banks
		Less than \$ 100 million	\$ 100 million to \$1 billion	\$1 billion to \$10 billion	Greater than \$10 billion	
<b>All institutions</b>	<b>\$3,183,032</b>	<b>\$63,476</b>	<b>\$258,938</b>	<b>\$465,903</b>	<b>\$2,394,715</b>	<b>\$5,440,943</b>
Alabama .....	42,236	964	3,218	0	38,054	140,866
Alaska .....	4,412	54	0	4,359	0	5,147
Arizona .....	38,284	142	1,654	15,505	20,983	42,257
Arkansas .....	10,742	1,136	7,766	1,840	0	25,130
California .....	402,540	1,960	13,842	9,945	376,794	516,036
Colorado .....	20,385	1,893	3,539	14,952	0	36,142
Connecticut .....	985	149	836	0	0	6,494
Delaware .....	94,554	183	1,606	25,327	67,438	131,310
District of Columbia .....	1,260	47	1,213	0	0	1,346
Florida .....	43,648	2,160	9,428	32,060	0	81,215
Georgia .....	22,324	1,389	9,757	11,178	0	76,644
Hawaii .....	312	0	312	0	0	24,155
Idaho .....	204	0	204	0	0	1,810
Illinois .....	187,870	5,325	24,583	31,183	126,778	297,301
Indiana .....	48,881	484	9,006	24,418	14,974	73,368
Iowa .....	14,685	1,651	3,832	9,203	0	46,595
Kansas .....	13,898	3,917	6,991	2,990	0	34,013
Kentucky .....	26,530	1,948	4,746	8,929	10,906	52,310
Louisiana .....	34,510	647	1,008	5,210	27,645	48,964
Maine .....	1,201	58	1,143	0	0	5,001
Maryland .....	5,687	272	2,851	2,564	0	44,591
Massachusetts .....	71,922	213	1,114	1,048	69,547	137,541
Michigan .....	17,669	804	3,805	2,368	10,691	117,213
Minnesota .....	127,084	3,617	11,363	11,098	101,007	147,792
Mississippi .....	9,217	241	2,633	6,343	0	26,897
Missouri .....	45,969	1,235	5,245	16,698	22,791	79,582
Montana .....	3,471	465	297	2,709	0	9,882
Nebraska .....	16,354	2,898	5,094	8,362	0	27,969
Nevada .....	18,211	81	138	17,992	0	27,494
New Hampshire .....	7,451	42	979	6,431	0	16,073
New Jersey .....	51,112	18	5,599	17,517	27,978	96,872
New Mexico .....	11,093	315	3,437	7,341	0	14,954
New York .....	371,564	1,617	11,355	11,236	347,355	1,143,651
North Carolina .....	604,975	56	2,136	1,167	601,616	665,725
North Dakota .....	5,883	296	2,484	3,102	0	10,834
Ohio .....	220,187	2,240	12,769	24,415	180,763	267,385
Oklahoma .....	20,528	3,979	6,331	10,218	0	35,642
Oregon .....	459	4	455	0	0	6,286
Pennsylvania .....	160,482	1,684	19,015	13,008	126,774	198,350
Rhode Island .....	82,833	0	0	7,232	75,601	90,523
South Carolina .....	3,672	530	1,655	1,488	0	18,974
South Dakota .....	22,233	450	2,595	4,991	14,197	29,739
Tennessee .....	82,797	591	4,446	12,208	65,552	102,483
Texas .....	128,728	13,360	29,386	35,951	50,031	179,880
Utah .....	24,932	103	439	7,152	17,239	45,230
Vermont .....	3,673	254	1,563	1,856	0	7,602
Virginia .....	11,063	330	4,533	6,200	0	75,001
Washington .....	1,904	544	1,360	0	0	12,742
West Virginia .....	13,533	863	2,905	9,766	0	23,552
Wisconsin .....	21,618	1,667	7,271	12,679	0	81,706
Wyoming .....	7,266	603	1,002	5,661	0	10,146
U.S. territories .....	0	0	0	0	0	42,531



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# Index

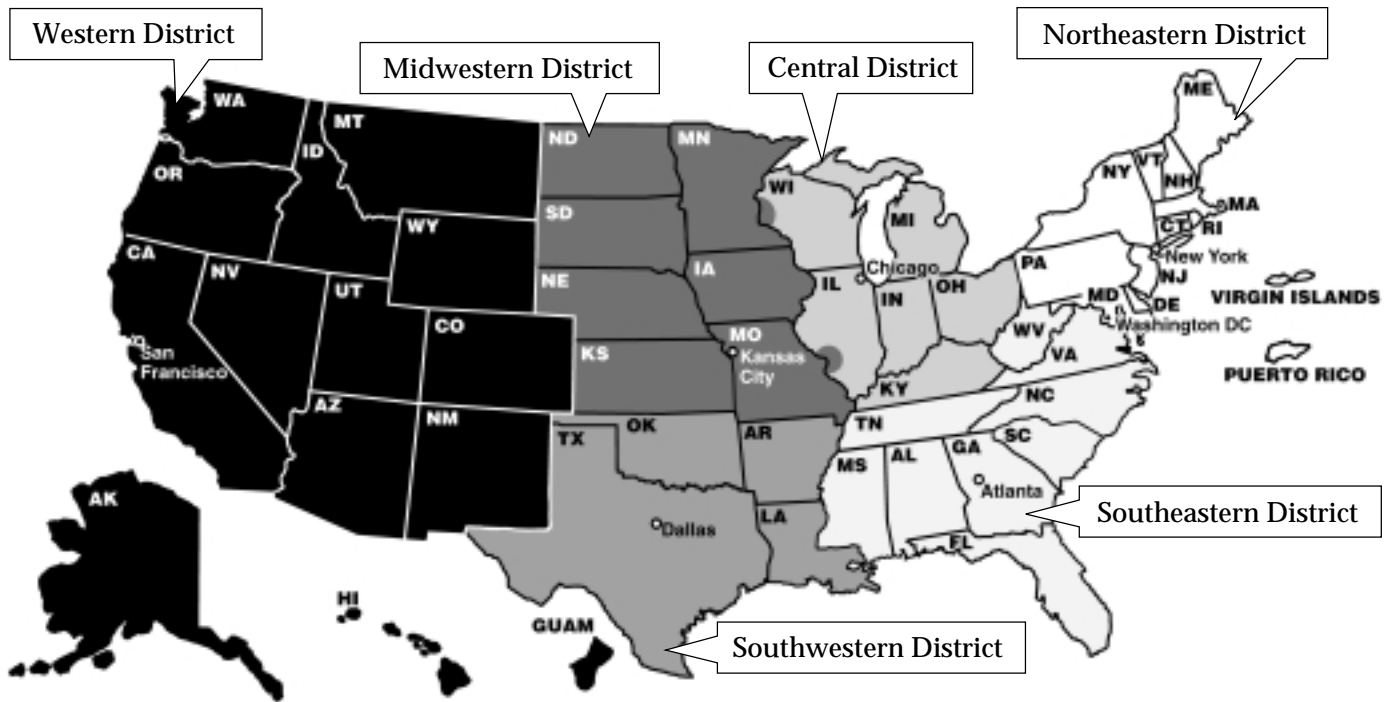
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- Abbott, John M., Deputy Comptroller for International Banking and Finance:  
Speech, **130**
- Administration and Chief Financial Officer, **46, 85**
- Affiliated mergers:  
For quarter, **171**  
Annual summary, **183**
- Affiliated mergers- thrift:  
For quarter, **176**  
Annual summary, **197**
- Annual merger tables, **179**
- Appeals process, **103**
- Applications for new, full-service national bank charters, approved and denied, by state (corporate structure table), **199**
- Applications for new, limited-purpose national bank charters, approved and denied, by state (corporate structure table), **201**
- Assets, liabilities, and capital accounts of national banks (financial table), **213**
- Assets of national banks by asset size (financial table), **216**
- Assets, total, of national banks by state and asset size (financial table), **225**
- Bank Supervision Operations, **45, 54**
- Bank Supervision Policy, **45, 48**
- Changes in the corporate structure of the national banking system, by state, (corporate structure table), **198**
- Chief Counsel, Office of the, **45, 57**
- Chief Financial Officer, **85**
- Chief Information Officer, **43**
- Commercial banks:  
Condition and performance of, **1**  
Number of commercial banks by state, **224**  
Off-balance-sheet items, **219**  
Past-due and nonaccrual loans and leases, **217**  
Quarterly income and expenses, **220**  
Quarterly net loan and lease losses, **222**  
Total assets, **216**  
Total assets by state, **225**  
Total liabilities, **218**  
Year-to-date income and expenses, **221**  
Year-to-date net loan and lease losses, **223**
- Comptrollers of the Currency, 1863 to present:  
Table 1, **89**  
Senior deputy and deputy, table 2, **90**
- Comptroller (summary), **43**
- Comptroller's Report of Operations- 1998, **43**
- Condition and performance of commercial banks, **1**
- Congressional testimony, speeches and, **109**
- Corporate decisions, recent, **97**
- Corporate structure, tables on the, of the national banking system, **177**
- Decisions, recent corporate, **97**
- Economic and Policy Analysis, **46, 79**
- Enforcement activities, special supervision/fraud and, **99**
- Executive Committee, **45**
- Federal branches and agencies of foreign banks in operation (corporate structure table), **209**
- Financial performance of national banks, tables on the, **211**
- Hawke, John D., Jr., Comptroller of the Currency:  
Biography, **inside front cover**
- Information Technology Services, **43**
- Internal Year 2000 Remediation, **26, 37, 43**
- International Affairs, **46, 80**
- Interpretations, **135**
- Interpretive letters:  
Permissibility of proposed method for distributing collective investment funds (Interpretive Letter No. 841), **140**  
Whether a bank may acquire and hold a noncontrolling 50 percent interest in a limited liability company structured as a joint venture (Interpretive Letter No. 842), **143**  
Whether a bank may buy and sell certain commemorative coins (Interpretive Letter No. 840), **140**  
Whether a bank may establish an operating subsidiary to serve as a captive insurance company (Interpretive Letter No. 845), **153**  
Whether a bank may provide certain services at its loan/deposit production office without that office being considered a branch (Interpretive Letter No. 843), **147**  
Whether a bank may purchase real estate and lease it to a school district (Interpretive Letter No. 847), **160**  
Whether a bank may solicit and sell insurance using the same means and facilities available to other insurance agencies (Interpretive Letter No. 844), **150**



- Whether a school banking program would constitute a branch (Interpretive Letter No. 839), **138**
- Whether certain bank equipment at a shopping mall requires filing a branch application (Interpretive Letter No. 838), **137**
- Whether certain provisions of a retirement plan for executive officers are permissible (Interpretive Letter No. 848), **161**
- Whether funds transfer agent agreements are considered to be a community development service under the Community Reinvestment Act (Interpretive Letter No. 849), **163**
- Whether nonbranch offices of a bank and its subsidiary mortgage company are branches (Interpretive Letter No. 846), **159**
- Key indicators, FDIC-insured commercial banks (condition tables):
- Annual 1994- 1997, year-to-date through quarter, **10**
  - By asset size, **12**
  - By region, **14**
- Key indicators, FDIC-insured national banks (condition tables):
- Annual 1994- 1997, year-to-date through quarter, **4**
  - By asset size, **6**
  - By region, **8**
- Liabilities of national banks by asset size (financial table), **218**
- Loan performance, FDIC-insured commercial banks (condition tables):
- Annual 1994- 1997, year-to-date through quarter, **11**
  - By asset size, **13**
  - By region, **15**
- Loan performance, FDIC-insured national banks (condition tables):
- Annual 1994- 1997, year-to-date through quarter, **5**
  - By asset size, **7**
  - By region, **9**
- Mergers:
- Affiliated, (involving affiliated operating banks), for quarter, **171**
  - Affiliated, - thrift (involving affiliated national banks and savings and loan associations), for quarter, **176**
  - Annual summaries, **179, 182, 183, 197**
  - Nonaffiliated, (involving two or more nonaffiliated operating banks), for quarter, **169**
  - Nonaffiliated, - thrift (involving nonaffiliated national banks and savings and loan associations), annual summary, **170**
- New, full-service national bank charters issued (corporate structure table), **202**
- New, limited-purpose national bank charters issued (corporate structure table), **203**
- National banks converted out of the national banking system (corporate structure table), **208**
- National banks merged out of the national banking system (corporate structure table), **206**
- Nonaffiliated mergers:
- For quarter, **169**
  - Annual summary, **179**
- Nonaffiliated mergers- thrift:
- For quarter, **170**
  - Annual summary, **182**
- Number of national banks by state and asset size (financial table), **224**
- Off-balance-sheet items of national banks by asset size (financial table), **219**
- Office of the Comptroller of the Currency:
- Interpretations, **135**
  - Organization chart, December 1998, **94**
  - Speeches and congressional testimony, **109**
- Ombudsman, **45, 47**
- Operations, Comptroller's Report of, - 1998, **39**
- Organization chart, Office of the Comptroller of the Currency, December 1998, **94**
- Other institution converted to limited-purpose national bank (corporate structure table), **205**
- Past-due and nonaccrual loans and leases of national banks by asset size (financial table), **217**
- Public Affairs, **46, 81**
- Quarterly income and expenses of national banks by asset size (financial table), **220**
- Quarterly income and expenses of national banks (financial table), **214**
- Quarterly net loan and lease losses of national banks by asset size (financial table), **222**
- Recent corporate decisions, **97**
- Special supervision/fraud and enforcement activities, **99**
- Speeches and congressional testimony:
- Of Julie L. Williams, Acting Comptroller of the Currency:
    - On credit quality and loan underwriting standards, **118**
    - On customer privacy and information security, **121**
    - On customer service and competition in the financial services industry, **127**
    - On long-term capital management and hedge funds, **111**
    - On mega-mergers, **115**

- On the effects of mega-mergers on small businesses and community banks, **124**
- Of John M. Abbott, Deputy Comptroller for International Banking and Finance:
  - On the supervision of branches and agencies of foreign banks, **130**
- State-chartered banks converted to full-service national banks (corporate structure table), **204**
- Structure, corporate, tables on the, of the national banking system, **177**
  
- Tables on the corporate structure of the national banking system, **177**
- Tables on the financial performance of national banks, **211**
- Testimony, congressional, speeches and, **109**
- Total assets of national banks by state and asset size (financial table), **225**
  
- Williams, Julie L., Acting Comptroller of the Currency:
  - Speeches and congressional testimony, **109**
  
- Year 2000 reports, **19**
- Year-to-date income and expenses of national banks by asset size (financial table), **221**
- Year-to-date income and expenses of national banks (financial table), **215**
- Year-to-date net loan and lease losses of national banks by asset size (financial table), **223**
  
- 12 USC 24(7) (interpretive letters), **140, 143, 153, 161**
- 12 USC 36(j) (interpretive letters), **137, 138, 147, 159**
- 12 USC 92 (interpretive letter), **150**
- 12 USC 2901 (interpretive letter), **163**
  
- 12 CFR 7.1000(d) (interpretive letter), **160**
- 12 CFR 9.18 (interpretive letter), **140**



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