FEDERAL RESERVE SYSTEM

Wells Fargo & Company
San Francisco, California

Statement by the Board of Governors of the Federal Reserve System Regarding the Application and Notices by Wells Fargo & Company to Acquire Wachovia Corporation and Wachovia's Subsidiary Banks and Nonbanking Companies

By order dated October 12, 2008, the Board approved the application of Wells Fargo & Company ("Wells Fargo"), a financial holding company within the meaning of the Bank Holding Company Act ("BHC Act"), under section 3 of the BHC Act,[1] to acquire Wachovia Corporation ("Wachovia"),[2] Charlotte, North Carolina, and thereby indirectly acquire Wachovia's subsidiary banks, Wachovia Bank, National Association ("Wachovia Bank"), Charlotte, and Wachovia Bank of Delaware, National Association, Wilmington, Delaware.[3] In addition, the Board approved Wells Fargo's notice under section 4 of the BHC Act[4] to acquire all the nonbanking subsidiaries of Wachovia, including Wachovia's two subsidiary savings associations, Wachovia Mortgage, F.S.B., North Las Vegas, Nevada, and Wachovia Bank, FSB, Houston, Texas.[5]

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[1] 12 U.S.C. § 1842.

[2] Wells Fargo initially would acquire shares of newly issued voting preferred securities of Wachovia, representing approximately 39.9 percent of aggregate voting securities. After shareholder approval, a wholly owned subsidiary of Wells Fargo would merge with and into Wachovia, with Wachovia surviving the merger and becoming a wholly owned subsidiary of Wells Fargo.

[3] The Board also approved the acquisition by Wells Fargo of Wachovia's indirect ownership of 5.7 percent of the voting shares of United Bancshares, Inc. ("United") and thereby the indirect acquisition of voting shares of United's subsidiary bank, United Bank of Philadelphia, both of Philadelphia, Pennsylvania.

[4] 12 U.S.C. § 1843.

[5] Wells Fargo proposes to acquire Wachovia's other nonbanking subsidiaries that are engaged in financial activities in accordance with section 4(k)(4)(A)-(H) and section 225.86 of the Board's Regulation Y. 12 U.S.C. § 1843(k)(4)(A)-(H); 12 CFR 225.86(a)-(d) and 225.170-177. In addition, Wells Fargo proposes to

The Board also approved Wells Fargo's notice to acquire the agreement corporation and Edge Act subsidiaries and the foreign operations of Wachovia pursuant to sections 25 and 25A of the Federal Reserve Act ("FRA") and the Board's Regulation K.[6] The Board hereby issues this statement regarding the approval order.

In light of the unusual and exigent circumstances affecting the financial markets, the weakened financial condition of Wachovia, and all other facts and circumstances, the Board determined in its order that emergency conditions existed that justified expeditious action on this proposal.[7] The Secretary of the Treasury (in consultation with the President) determined, on the recommendation of the Federal Deposit Insurance Corporation ("FDIC") and the Board (both by a vote of 5 members), that compliance by the FDIC with the least-cost provisions of the Federal Deposit Insurance Act ("FDI Act") with respect to Wachovia could likely result in serious adverse effects on economic conditions or financial stability. The proposed acquisition of Wachovia by Wells Fargo as currently structured would avoid those adverse effects without reliance on assistance by the FDIC. The Board provided notice of this proposal to the Office of the Comptroller of the Currency ("OCC") and the Office of Thrift Supervision ("OTS"), the primary federal supervisors of Wachovia's subsidiary banks and savings associations, in accordance with the requirements of sections 3 and 4 of the BHC Act and the Board's Regulation Y governing emergencies that require expeditious action. The Board also provided notice of this proposal to the Department

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acquire Wachovia's nonbanking subsidiary that is engaged in certain physical commodity trading activities as an activity that is complementary to a financial activity under section 4(k)(1)(B) of the BHC Act ("Complementary Activity"). See Board letter to Elizabeth T. Davy, April 13, 2006. Wells Fargo also received authority to engage in such physical trading activities as a Complementary Activity. See Board letter to John Shrewsberry, April 10, 2008. Wachovia also has other nonbanking subsidiaries that do not require Board approval, in accordance with section 225.22 of Regulation Y. 12 CFR 225.22.

[6] 12 U.S.C. §§ 601 et seq. and 611 et seq.; 12 CFR Part 211.

[7] See 12 U.S.C. §§ 1842(b)(1) and 1843(i)(4). A commenter objecting to the proposal asserted that expeditious action was not warranted.

of Justice ("DOJ"). Those agencies have indicated that they have no objection to approval of the proposal.[8] For the same reasons, and in accordance with the provisions of the Board's regulations, the Board waived public notice of this proposal.[9]

Wells Fargo, with total consolidated assets of approximately $609.1 billion, is the fifth largest depository organization in the United States.[10] Wells Fargo controls nine insured depository institutions that operate in twenty-three states.

Wachovia, with total consolidated assets of approximately $812.4 billion, is the third largest depository organization in the United States. Wachovia controls five insured depository institutions that operate in twenty-one states and the District of Columbia. On consummation of this proposal, Wells Fargo would become the second largest depository organization in the United States, with total consolidated assets of approximately $1.37 trillion.

Factors Governing Board Review of the Transaction

The BHC Act sets forth the factors that the Board must consider when reviewing the acquisition of banks. For direct or indirect acquisitions of banks under section 3 of the BHC Act, these factors are the requirements for interstate bank acquisitions; the competitive effects of the proposal in the relevant geographic markets; the financial and managerial resources and future prospects of the companies and banks involved in the proposal; the convenience and needs of the communities to be served;

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[8] Section 3(b)(1) of the BHC Act requires that the Board provide notice of an application under section 3 to the appropriate federal or state supervisory authority for the bank to be acquired and provide the supervisor a period of time (normally 30 days) within which to submit views or recommendations on the proposal. Section 4(i)(4) of the BHC Act imposes a similar requirement with respect to a notice to acquire a savings association. Sections 3(b)(1) and 4(i)(4) also permit the Board to shorten or waive this notice period in certain circumstances. 12 U.S.C. §§ 1842(b)(1) and 1843(i)(4); 12 CFR 225.16(g).

[9] Id.; 12 CFR 225.16(b)(3), 225.25(d), and 262.3(*l*).

[10] Asset, national deposit, and ranking data are as of June 30, 2008. In this context, insured depository institutions include commercial banks, savings banks, and savings associations.

the records of performance under the Community Reinvestment Act[11] ("CRA") of the insured depository institutions involved in the transaction; and the availability of information needed to determine and enforce compliance with the BHC Act and other applicable federal banking laws.[12]

An acquisition of a savings association requires Board approval under sections 4(c)(8) and 4(j) of the BHC Act.[13] The Board previously has determined by regulation that the operation of a savings association is closely related to banking for purposes of section 4(c)(8) of the BHC Act.[14] The Board also must determine that the proposed acquisition of Wachovia's savings associations "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."[15]

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[11] 12 U.S.C. § 2901 et seq.

[12] The Board received comments from Citigroup Inc. ("Citigroup"), New York, New York, objecting to the proposal, which the Board carefully considered. Among other things, Citigroup contends that Wells Fargo's agreement to acquire Wachovia violated Wachovia's prior agreement to negotiate exclusively with Citigroup on an acquisition agreement and improperly interfered with plans by the FDIC to provide assistance pursuant to section 13(c) of the FDI Act for Citigroup's proposed acquisition of some or all of Wachovia. 12 U.S.C. § 1823(c). These allegations are the subject of litigation between Citigroup, Wells Fargo, and Wachovia. The litigation is before a court of competent jurisdiction, and the matters at issue in the litigation are not within the discretion of the Board to resolve. See Western Bancshares, Inc. v. Board of Governors, 480 F.2d 749 (10th Cir. 1973) ("Western"). As explained in more detail above, as part of its review of this proposal, the Board has carefully considered all of the facts of record in assessing the financial and managerial resources and future prospects of the companies involved.

[13] 12 U.S.C. §§ 1843(i), 1843(c)(8), and 1843(j).

[14] 12 CFR 225.28(b)(4)(ii).

[15] 12 U.S.C. § 1843(j)(2)(A).

Interstate and Deposit Cap Analysis

Section 3(d) of the BHC Act allows the Board to approve an application by a bank holding company to acquire control of a bank located in a state other than the bank holding company's home state if certain conditions are met. For purposes of the BHC Act, the home state of Wells Fargo is Minnesota,[16] and the banks to be acquired are located in 21 states and the District of Columbia.[17]

The Board may not approve an interstate proposal under section 3(d) of the BHC Act if the applicant (including all its insured depository institution affiliates) controls, or on consummation of the proposal would control, more than 10 percent of the total amount of deposits of insured depository institutions in the United States ("nationwide deposit cap"). The nationwide deposit cap was added to section 3(d) when Congress broadly authorized interstate acquisitions by bank holding companies and banks in the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994.[18] Although the nationwide deposit cap prohibits interstate acquisitions by a company that controls deposits in excess of the cap, it does not prevent a company from exceeding the nationwide deposit cap through internal growth and effective competition for deposits or through acquisitions entirely within the home state of the acquirer.

As required by section 3(d), the Board has carefully considered whether Wells Fargo controls, or on consummation of the proposed transaction would control,

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[16] See 12 U.S.C. § 1842(d). A bank holding company's home state is the state in which the total deposits of all banking subsidiaries of such company were the largest on July 1, 1966, or the date on which the company became a bank holding company, whichever is later.

[17] For purposes of section 3(d), the Board considers a bank to be located in the states in which the bank is chartered or headquartered or operates a branch. See 12 U.S.C. §§ 1841(o)(4)-(7) and 1842(d)(1)(A) and (d)(2)(B).

[18] Pub. L. No. 103-328, 108 Stat. 2338 (1994). The nationwide deposit cap was intended to help guard against undue concentrations of economic power. See S. Rep. No. 102-167 at 72 (1991).

more than 10 percent of the total amount of deposits of insured depository institutions[19] in the United States. In analyzing this matter, the Board calculated the percentage of total deposits of insured depository institutions in the United States and the total deposits that Wells Fargo controls, and on consummation of the proposal would control, based on the definition of "deposit" in the FDI Act,[20] the latest available deposit data collected in reports filed by all insured depository institutions (data as of June 30, 2008),[21] deposit information available from the companies involved in this transaction, other information available to the Board, and the methods and adjustments used by the FDIC to compute total deposits. These calculations have been made using the methodology described in the Board's order in 2004 approving Bank of America Corporation's acquisition of FleetBoston Financial Corporation[22] and take into account the use of revised Call Report

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[19] The BHC Act adopts the definition of "insured depository institution" used in the FDI Act. See 12 U.S.C. § 1841(n). The FDI Act's definition of "insured depository institution" includes all banks (whether or not the institution is a bank for purposes of the BHC Act), savings banks, and savings associations that are insured by the FDIC, and insured U.S. branches of foreign banks, as each of those terms is defined in the FDI Act. See 12 U.S.C. § 1813(c)(2).

[20] Section 3(d) of the BHC Act specifically adopts the definition of "deposit" in the FDI Act. 12 U.S.C. § 1842(d)(2)(E) (incorporating the definition of "deposit" at 12 U.S.C. § 1813 (*l*).

[21] Each insured bank in the United States must report data regarding its total deposits in accordance with the definition of "deposit" in the FDI Act on the institution's Consolidated Report of Condition and Income ("Call Report"). Each insured savings association similarly must report its total deposits on the institution's Thrift Financial Report. Deposit data for FDIC-insured U.S. branches of foreign banks and federal branches of foreign banks are obtained from the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks. These data are reported quarterly to the FDIC and are publicly available.

[22] Bank of America Corporation, 90 Federal Reserve Bulletin 217, 219 (2004); see also Bank of America Corporation, 93 Federal Reserve Bulletin C109 (2007) (order approving the acquisition of ABN AMRO North America Holding Company); Bank of America Corporation, 92 Federal Reserve Bulletin C5 (2006) (order approving merger with MBNA Corporation).

and Thrift Financial Report forms, which became effective for calendar year 2008.[23] In light of the turmoil in the financial markets since June 30, 2008, the Board also analyzed more recent adjusted deposit data from Wells Fargo and Wachovia and other sources of deposit data.

Based on data as of June 30, 2008, which represent the latest adjusted deposit data available from all insured depository institutions, the total amount of deposits of insured depository institutions in the United States was approximately $7.195 trillion. The data indicate that, on June 30, 2008, Wells Fargo controlled deposits of approximately $298.2 billion, and Wachovia controlled deposits of approximately $429.6 billion. As of that date, the combined firm would have controlled approximately 10.116 percent of the total amount of deposits of insured depository institutions in the United States on consummation of the proposal.

Wells Fargo and Wachovia provided data on their respective adjusted deposit totals as of September 30, 2008. These data indicate that, on a combined basis, Wells Fargo would control approximately $731.1 billion in deposits on consummation of the proposal. Deposit amounts for other insured depository organizations are not available because institutions are not required to file Call Reports for the third quarter until the end of October, and such data will not be available for review until later in November.

The prohibition in the BHC Act, by its terms, applies if "upon consummation of the acquisition (emphasis added)" the applicant would control more than 10 percent of the total amount of deposits of insured depository institutions in the United States. While the June 30, 2008, deposit data are the most recent data currently available on a uniform basis, the Board believes that other evidence indicates that the June 30, 2008, data do not reflect the current situation nor would those data

[23] The revisions to the Call Report and Thrift Financial Report that were introduced in 2007 have simplified the adjusted deposit-cap calculation for depository organizations. The methodology for computing the amount of deposits held by institutions for purposes of calculating the nationwide deposit cap is outlined in Appendix A.

accurately reflect the deposit ratio at the time required by the statute, which is the time of consummation of the acquisition.

Other data sources indicate, for example, that the total amount of deposits in the United States has significantly increased since June 30, 2008. Deposit data collected by the Federal Reserve in its survey of domestically chartered commercial banks and reported on the Board's H.8 Release (Assets and Liabilities of Commercial Banks) for September 2008 indicate that total deposits of insured commercial banks in the United States increased by approximately 3.9 percent during the third quarter of 2008. Estimated nationwide deposit growth in excess of 3 percent is corroborated by other deposit data sources.[24] If total deposits reported on June 30, 2008, are adjusted to account for this level of growth, the combined deposits of Wells Fargo and Wachovia as of September 30, 2008, would be below 10 percent of nationwide deposits. Indeed, Wells Fargo's percentage of total nationwide deposits would be less than 10 percent if adjusted deposits for all insured depository institutions in the United States grew by at least 1.62 percent since June 30, 2008, which would result in a total amount of adjusted deposits all for insured depository institutions of at least $7.311 trillion. Based on all the information available to the Board, the Board concluded that the combined organization would not control an amount of deposits that would exceed the nationwide deposit cap on consummation of the proposal. To ensure compliance with the deposit limits on acquisitions, Wells Fargo has committed that, on consummation, the combined organization would not exceed the nationwide deposit cap based on the data reported by all depository institutions as of September 30, 2008. This commitment includes a commitment that Wells Fargo will reduce its deposits by any amount that exceeds the nationwide deposit cap based on Call Report data as of September 30, 2008, by no later than December 31, 2008.[25]

[24] Deposit data collected from commercial banks on the FR 2900 (Report of Transaction Accounts, Other Deposits and Vault Cash) show a similar trend.

[25] Institutions reporting quarterly deposit data may find it necessary to make adjustments after the due date of the quarterly report. Accordingly, for purposes of this commitment,

Section 3(d) also prohibits the Board from approving a proposal if, on consummation, the applicant would control 30 percent or more of the total deposits of insured depository institutions in any state in which both the applicant and the organization to be acquired operate an insured depository institution, or the applicable percentage of state deposits established by state law ("state deposit cap").[26] On consummation of the proposal, Wells Fargo would control less than 30 percent of, and less than any applicable state deposit cap for, the total amount of deposits of insured depository institutions in the relevant states.

All other requirements of section 3(d) of the BHC Act also would be met on consummation of the proposal.[27] Based on all the facts of record, the Board is permitted to approve the proposal under section 3(d) of the BHC Act.

Competitive Considerations

The Board has considered carefully the competitive effects of the proposal in light of all the facts of record. Section 3 of the BHC Act prohibits the Board from approving a proposal that would result in a monopoly or would be in furtherance of an attempt to monopolize the business of banking in any relevant banking market. The BHC Act also prohibits the Board from approving a bank acquisition that would substantially lessen competition in any relevant banking market, unless the

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Wells Fargo and the Board will evaluate the third quarter 2008 deposit data on November 30, 2008, by which time reporting institutions should have completed any necessary adjustments.

[26] 12 U.S.C. § 1842(d)(2)(B)-(D). Wells Fargo and Wachovia both operate insured depository institutions in Arizona, California, Colorado, Illinois, Nevada, and Texas.

[27] Wells Fargo is adequately capitalized and adequately managed as required under section 3(d). 12 U.S.C. § 1842 (d)(1)(A). The subsidiary banks of Wachovia have been in existence and operated for the minimum period of time required by applicable state law. See 12 U.S.C. § 1842(d)(1)(B). Wachovia Bank's subsidiary insured credit card company, Wachovia Card Services, National Association, Atlanta, Georgia, was established in 2007 but engages only in limited operations and, therefore, is not a bank for purposes of the BHC Act. See 12 U.S.C. § 1841(c)(2)(D). The other requirements in section 3(d) of the BHC Act also would be met on consummation of the proposal.

anticompetitive effects of the proposal are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.[28] In addition, the Board must consider the competitive effects of a proposal to acquire a savings association under the public benefits factor of section 4(j) of the BHC Act.

Wells Fargo's and Wachovia's subsidiary depository institutions directly compete in 49 banking markets, including markets in Arizona, California, Colorado, Illinois, Nevada, and Texas. The Board has reviewed carefully the competitive effects of the proposal in each of those banking markets in light of all the facts of record. In particular, the Board has considered the number of competitors that would remain in the banking markets, the relative shares of total deposits in depository institutions in the markets ("market deposits") controlled by Wells Fargo and Wachovia,[29] the concentration levels of market deposits and the increase in those levels as measured by the Herfindahl-Hirschman Index ("HHI") under the Department of Justice Merger Guidelines ("DOJ Guidelines"),[30] and other characteristics of the markets. In addition,

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[28] 12 U.S.C. § 1842(c)(1).

[29] Deposit and market share data are as of June 30, 2007, adjusted to reflect mergers and acquisitions through October 3, 2008, and are based on calculations in which the deposits of thrift institutions are included at 50 percent. The Board previously has indicated that thrift institutions have become, or have the potential to become, significant competitors of commercial banks. See, e.g., Midwest Financial Group, 75 Federal Reserve Bulletin 386, 387 (1989); National City Corporation, 70 Federal Reserve Bulletin 743, 744 (1984). Thus, the Board regularly has included thrift deposits in the market share calculation on a 50 percent weighted basis. See, e.g., First Hawaiian, Inc., 77 Federal Reserve Bulletin 52, 55 (1991). In this case, the savings association deposits of Wachovia are weighted at 100 percent both before and after consummation of the proposal because the savings associations are, and on consummation would continue to be, controlled by a bank holding company.

[30] Under the DOJ Guidelines, a market is considered unconcentrated if the post-merger HHI is less than 1000, moderately concentrated if the post-merger HHI is between 1000 and 1800, and highly concentrated if the post-merger HHI is more than 1800. The Department of Justice has informed the Board that a bank merger or acquisition

the Board has considered commitments made by Wells Fargo to the Board to reduce the potential that the proposal would have adverse effects on competition by divesting six branches (the "divestiture branches"), which account for approximately $1.46 billion of deposits,[31] in six banking markets ("the divestiture markets").[32] Wells Fargo has proposed to transfer all the divestiture branches to out-of-market competitors.

A. Banking Markets within Established Guidelines

Consummation of the proposal would be consistent with Board precedent and within the thresholds in the DOJ Guidelines in 37 of the banking markets in which Wells Fargo's and Wachovia's subsidiary depository institutions directly compete.[33] On consummation of the proposal, two of these banking markets would remain unconcentrated, twenty-seven banking markets would be moderately concentrated,

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generally will not be challenged (in the absence of other factors indicating anticompetitive effects) unless the post-merger HHI is at least 1800 and the merger increases the HHI by more than 200 points. The Department of Justice has stated that the higher than normal HHI thresholds for screening bank mergers for anticompetitive effects implicitly recognize the competitive effects of limited-purpose lenders and other nondepository financial entities.

[31] Wells Fargo proposes to divest five Wachovia branches with approximately $1.33 billion of deposits in California and one Wachovia branch with approximately $127 million of deposits in Colorado.

[32] Wells Fargo has committed that, not later than 60 days after consummating the proposed acquisition, it will execute an agreement for the proposed divestitures in each divestiture market with a purchaser that the Board determines to be competitively suitable. Wells Fargo also has committed to divest total deposits in each divestiture market of at least the amount specified in the commitment and discussed in this order and to complete divestitures within 180 days of consummation of the proposal. In addition, Wells Fargo has committed that, if it is unsuccessful in completing the proposed divestiture within this time period, it will transfer the unsold branches to an independent trustee that will be instructed to sell such branches to an alternate purchaser or purchasers, without regard to price. Both the trustee and any alternate purchaser must be acceptable to the Board. See Regions Financial Corp., 93 Federal Reserve Bulletin C16 (2007); BankAmerica Corp., 78 Federal Reserve Bulletin 338 (1992); United New Mexico Financial Corp., 77 Federal Reserve Bulletin 484 (1991).

[33] The effects of the proposal on the concentrations of banking resources in these banking markets are described in Appendix B.

and eight banking markets would be highly concentrated, as measured by the HHI. The change in HHI in the eight highly concentrated markets would be small or otherwise within the DOJ Guidelines. In each of the 37 banking markets, numerous competitors would remain on consummation of the proposal.

B. Certain Banking Markets with Divestitures

After accounting for the branch divestitures, consummation of the merger would be consistent with Board precedent and the thresholds in the DOJ Guidelines in five banking markets.[34] In three of these markets, Wells Fargo proposes to divest all branches to be acquired from Wachovia and, therefore, the levels of concentration as measured by the HHI would not increase on consummation of the merger and the proposed divestitures.[35] In two markets, the HHI would be consistent with Board precedent and thresholds in the DOJ Guidelines on consummation of the merger and the proposed divestitures.[36] After accounting for the proposed divestitures, four banking markets would be moderately concentrated, and one banking market would be highly concentrated on consummation. In addition, numerous competitors would remain in each of the five banking markets.

C. Seven Banking Markets Warranting Special Scrutiny

Wells Fargo and Wachovia compete directly in seven banking markets that warrant a detailed review: Cottonwood, Arizona; Hanford, Hemet, Oroville, Placerville, and Santa Cruz, all in California; and Grand Junction, Colorado. In each of these markets, including one with proposed divestitures and six without proposed divestitures, the concentration levels on consummation of the proposal would exceed the threshold levels in the DOJ Guidelines or the resulting market share of Wells Fargo would exceed 35 percent.

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[34] The effects of the proposal on the concentrations of banking resources in these markets are described in Appendix C.

[35] The three markets are Davis and Grass Valley, both in California, and Fremont County in Colorado.

[36] The two markets are Monterey-Seaside-Marina and Sonora, both in California.

For each of these markets, the Board has considered carefully whether other factors either mitigate the competitive effects of the proposal or indicate that the proposal would have a significantly adverse effect on competition in the market. The number and strength of factors necessary to mitigate the competitive effects of a proposal depend on the size of the increase in, and resulting level of, concentration in a banking market.[37] In each of these markets, the Board has identified factors that indicate the proposal would not have a significantly adverse impact on competition, despite the post-consummation increases in the HHI and market shares.

Among the factors reviewed, the Board has considered the competitive influence of community credit unions in these banking markets. In each of the markets, certain credit unions offer a wide range of consumer products, operate street-level branches, and have membership open to almost all residents in the applicable market. The Board has concluded that the activities of such credit unions in each of these markets exert competitive influence that mitigates, in part, the potential effects of the proposal.[38]

Banking Market in Arizona

Cottonwood. In the Cottonwood banking market,[39] Wells Fargo is the second largest depository organization, controlling deposits of approximately $172.8 million, which represent approximately 15.3 percent of market deposits. Wachovia is the fifth largest depository organization in the market, controlling deposits of approximately $129 million, which represent approximately 11.4 percent of market

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[37] See Regions Financial Corp., 93 Federal Reserve Bulletin C16 (2007); NationsBank Corporation, 84 Federal Reserve Bulletin 129 (1998).

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

[39] The Cottonwood banking market in Arizona is defined as the northeastern corner of Yavapai County and includes the towns of Camp Verde and Clarkdale and the cities of Cottonwood, Sedona, and West Sedona.

deposits. On consummation of the merger, Wells Fargo would remain the second largest depository organization in the market, controlling deposits of approximately $301.8 million, which represent approximately 26.6 percent of market deposits. The HHI would increase 347 points to 2305.

Several factors indicate that the increase in concentration in the Cottonwood banking market, as measured by the HHI and Wells Fargo's market share, overstates the potential competitive effects of the proposal in the market. After consummation of the proposal, nine other commercial banking and thrift competitors would remain in the market. The Board notes that there are other competitors with a significant presence in the market. The largest depository organization in the market would control 34.8 percent of market deposits, and two other bank competitors each would control more than 12 percent of market deposits.

The Board also has evaluated the competitive influence of one active community credit union in the market. This credit union controls approximately $88.3 million of deposits in the market, which, on a 50 percent weighted basis, represents approximately 3.8 percent of market deposits. After accounting for these credit union deposits, Wells Fargo on consummation of the proposal would control approximately 25.6 percent of market deposits, and the HHI would increase 322 points to 2149.[40]

In addition, the record of recent entry into the Cottonwood banking market evidences the market's attractiveness for entry. The Board notes that five depository institutions have entered the market de novo since 2004. Other factors indicate that the market remains attractive for entry. From 2004 to 2007, the annualized population growth for the county in which the Cottonwood market is located exceeded the average annualized population growth for nonmetropolitan counties in Arizona.

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[40] With the deposits of this credit union weighted at 50 percent, Wells Fargo would be the second largest depository organization in the market, with approximately 14.7 percent of market deposits, and Wachovia would be the fifth largest depository organization in the market, controlling approximately 11 percent of market deposits.

Banking Markets in California

Hanford. In the Hanford banking market,[41] Wells Fargo is the fourth largest depository organization, controlling deposits of approximately $148.3 million, which represent approximately 17.4 percent of market deposits. Wachovia is the third largest depository organization in the market, controlling deposits of approximately $159.9 million, which represent approximately 18.7 percent of market deposits. On consummation of the merger, Wells Fargo would become the largest depository organization in the market, controlling deposits of approximately $308.2 million, which represent 36.1 percent of market deposits. The HHI would increase 650 points to 2045.

Several factors indicate that the proposal would not have significantly adverse competitive effects in the Hanford banking market. After consummation of the proposal, ten other commercial banking competitors would remain, including two other competitors with a significant presence in the market. The second and third largest depository organizations would control market deposits of more than 20 percent and 12 percent, respectively.

The Board also has evaluated the competitive influence of three active community credit unions in the market. These credit unions control approximately $200.6 million of deposits in the market, which, on a 50 percent weighted basis, represents approximately 10.5 percent of market deposits. After accounting for these credit union deposits, Wells Fargo on consummation of the proposal would control approximately 32.3 percent of market deposits, and the HHI would increase 521 points to 1675.[42]

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[41] The Hanford banking market in California is defined as Kings County and the city of Riverdale in Fresno County.

[42] With the deposits of these credit unions weighted at 50 percent, Wells Fargo would be the fourth largest depository organization in the market, with approximately 15.5 percent of market deposits, and Wachovia would be the third largest depository organization in the market, controlling approximately 16.8 percent of market deposits.

Hemet. In the Hemet banking market,[43] Wells Fargo is the sixth largest depository organization, controlling approximately $124.4 million of deposits, which represents approximately 7.2 percent of market deposits. Wachovia is the largest depository organization in the market, controlling deposits of $391.6 million, which represent 22.6 percent of market deposits. On consummation of the proposal, Wells Fargo would become the largest depository organization in the market, controlling deposits of approximately $516 million, which represent approximately 29.8 percent of market deposits. The HHI would increase by 324 points to 1809.

Several factors indicate that the proposal would not have a significantly adverse effect on competition in the Hemet banking market. After consummation of the proposal, 12 other commercial banking and thrift competitors would remain in the market. Three of those remaining competitors would each control more than 10 percent of market deposits.

In addition, the Board has concluded that the activities of two community credit unions in the market exert a sufficient competitive influence to mitigate, in part, the potential adverse competitive effects of the proposal. These active credit unions control approximately $186.3 million of deposits in the market, which, on a 50 percent weighted basis, represents approximately 5.1 percent of market deposits. After accounting for those credit union deposits, Wells Fargo would control approximately 28.2 percent of market deposits on consummation of the proposal, and the HHI would increase 292 points to 1644.[44]

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[43] The Hemet banking market in California is defined as the Hemet Ranally Metro Area.

[44] With the deposits of these credit unions weighted at 50 percent, Wells Fargo would be the sixth largest depository organization in the market, with approximately 6.8 percent of market deposits, and Wachovia would be the largest depository organization in the market, controlling approximately 21.4 percent of market deposits.

Oroville. In the Oroville banking market,[45] Wells Fargo is the sixth largest depository organization, controlling deposits of approximately $49.1 million, which represent approximately 7.3 percent of market deposits. Wachovia is the largest depository organization in the market, controlling deposits of approximately $144.9 million, which represent approximately 21.6 percent of market deposits. On consummation of the proposal, Wells Fargo would become the largest depository organization in the market, controlling deposits of approximately $194 million, which represent 29 percent of market deposits. The HHI would increase 317 points to 1854.

Several factors indicate that the increase in concentration in the Oroville banking market, as measured by the HHI and Wells Fargo's market share, overstates the potential competitive effects of the proposal in the market. After consummation of the proposal, seven other commercial banking competitors would remain in the market. The Board notes that there are other competitors with a significant presence in the market. The second largest depository organization in the market would control approximately 21.6 percent of market deposits, and two other bank competitors each would control more than 10 percent of market deposits.

The Board also has evaluated the competitive influence of two active community credit unions in the market. These credit unions control approximately $37.5 million of deposits in the market, which, on a 50 percent weighted basis, represents approximately 2.7 percent of market deposits. After accounting for these credit union deposits, Wells Fargo on consummation of the proposal would control approximately 28.2 percent of market deposits, and the HHI would increase 300 points to 1759.[46]

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[45] The Oroville banking market in California is defined as the southern portion of Butte County, excluding the city of Chico but including the towns of Gridley and Oroville.

[46] With the deposits of these credit unions weighted at 50 percent, Wells Fargo would be the sixth largest depository organization in the market, with approximately 7.1 percent of market deposits, and Wachovia would be the largest largest depository organization in the market, controlling approximately 21.1 percent of market deposits.

Placerville. In the Placerville banking market,[47] Wells Fargo is the third largest depository organization, controlling deposits of approximately $137.6 million, which represent approximately 15.7 percent of market deposits. Wachovia is the largest depository organization in the market, controlling deposits of approximately $220.3 million, which represent approximately 25.1 percent of market deposits. On consummation of the proposal, Wells Fargo would become the largest depository organization in the market, controlling deposits of approximately $357.9 million, which represent approximately 40.7 percent of market deposits. The HHI would increase 784 points to 2403.

Several factors indicate that the proposal would not have a significantly adverse effect on competition in the Placerville banking market. After consummation of the proposal, seven other commercial banking and thrift competitors would remain in the market. The Board notes that there are other competitors with a significant presence in the market, including two bank competitors that each would control more than 12 percent of the market deposits.

The Board also has evaluated the competitive influence of five active community credit unions in the market. These credit union controls approximately $277.2 million of deposits in the market, which, on a 50 percent weighted basis, represents approximately 13.1 percent of market deposits. After accounting for these credit union deposits, Wells Fargo on consummation of the proposal would control approximately 33.8 percent of market deposits, and the HHI would increase 538 points to 1738.[48]

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[47] The Placerville banking market in California is defined as western El Dorado County outside of the Sacramento banking market, including the cities of Diamond Springs, Georgetown, Placerville, and Pollock Pines.

[48] With the deposits of these credit unions weighted at 50 percent, Wells Fargo would be the third largest depository organization in the market, with approximately 13 percent of market deposits, and Wachovia would be the largest depository organization in the market, controlling approximately 20.8 percent of market deposits.

Santa Cruz. In the Santa Cruz banking market,[49] Wells Fargo is the second largest depository organization, controlling deposits of approximately $653.9 million, which represent approximately 19.1 percent of market deposits. Wachovia is the largest depository organization in the market, controlling deposits of approximately $912 million, which represent approximately 26.6 percent of market deposits. To reduce the potential for adverse effects on competition in the Santa Cruz banking market, Wells Fargo has proposed to divest one of Wachovia's branches, with deposits of $285.2 million, to an out-of-market depository organization. On consummation of the proposal and after accounting for the proposed divestiture, Wells Fargo would become the largest depository organization in the market, controlling deposits of approximately $1.28 billion, which represent 37.4 percent of market deposits. The HHI would increase 394 points to 2103.

Several factors indicate that the proposal would not have significantly adverse competitive effects in the Santa Cruz banking market. After consummation of the proposal, 12 other commercial banking competitors would remain in the market. The Board notes that there are other competitors with a significant presence in the market, including three bank competitors that would each control more than 10 percent of the market.

The Board also has evaluated the competitive influence of three active community credit unions in the market. These credit unions control approximately $511 million of deposits in the market, which, on a 50 percent weighted basis, represents approximately 6.9 percent of market deposits. After accounting for these credit union deposits and for the branch divestiture, Wells Fargo on consummation of the proposal would control approximately 34.8 percent of market deposits, and the HHI would increase 341 points to 1855.[50]

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[49] The Santa Cruz banking market in California is defined as the Santa Cruz Ranally Metro Area.

[50] With the deposits of these credit unions weighted at 50 percent, Wells Fargo would be the second largest depository organization in the market, with approximately 17.8 percent

In addition, the record of recent entry into the Santa Cruz banking market evidences the market's attractiveness for entry. The Board notes that two depository institutions have entered the market de novo since 2004.

Banking Market in Colorado

Grand Junction. In the Grand Junction banking market,[51] Wells Fargo is the largest depository organization, controlling deposits of approximately $500.9 million, which represent approximately 23.7 percent of market deposits. Wachovia operates the second largest depository organization in the market, controlling deposits of approximately $291.8 million, which represent approximately 13.8 percent of market deposits. On consummation of the proposal, Wells Fargo would remain the largest depository institution in the market, controlling deposits of approximately $792.7 million, which represent 37.5 percent of market deposits. The HHI would increase 653 points to 1877.

Several factors indicate that the increase in concentration in the Grand Junction banking market, as measured by the HHI and Wells Fargo's market share, overstates the potential competitive effects of the proposal in the market. After consummation of the proposal, 13 other commercial bank competitors would remain in the market.

The Board also has evaluated the competitive influence of two active community credit unions in the market. These credit unions control approximately $83.6 million in deposits in the market, which, on a 50 percent weighted basis, represents approximately 1.9 percent of market deposits. After accounting for these credit union

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of market deposits, and Wachovia would be the largest depository organization in the market, controlling approximately 24.8 percent of market deposits.

[51] The Grand Junction banking market in Colorado is defined as Mesa County.

deposits, Wells Fargo on consummation of proposal would control approximately 36.7 percent of market deposits, and the HHI would increase 628 points to 1808.[52]

In addition, the record of recent entry into the Grand Junction banking market evidences the market's attractiveness for entry. The Board notes that two depository institutions have entered the market de novo since 2004. Other factors indicate that the market remains attractive for entry. From 2004 to 2007, the market's annualized population growth exceeded the average annualized population growth for metropolitan counties in Colorado.

D. Views of Other Agencies and Conclusion on Competitive Considerations

The DOJ also has reviewed the proposal and has advised the Board that it does not believe that the proposal would likely have a significant adverse effect on competition in any relevant banking market at this time. The appropriate federal supervisory agencies have been afforded an opportunity to comment and have not objected to the proposal.

Accordingly, based on all the facts of record, the Board has concluded that consummation of the proposal would not have a significantly adverse effect on competition or on the concentration of resources in any relevant banking market and that competitive considerations are consistent with approval.

Financial, Managerial, and Supervisory Considerations

Section 3 of the BHC Act requires the Board to consider the financial and managerial resources and future prospects of the companies and banks involved in the proposal and certain other supervisory factors. The Board also reviews the financial and managerial resources of the organizations involved in the proposal under section 4 of the BHC Act. The Board has carefully considered these factors in light of all the facts of record, including confidential supervisory and examination information received from the

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[52] With the deposits of these credit unions weighted at 50 percent, Wells Fargo would be the largest depository organization in the market, with approximately 23.2 percent of market deposits, and Wachovia would be the second largest depository organization in the market, controlling approximately 13.5 percent of market deposits.

relevant federal and state supervisors of the organizations involved, publicly reported and other financial information, information provided by Wells Fargo and Wachovia, and public comments received on the proposal.[53]

In evaluating the financial resources in expansion proposals by banking organizations, the Board reviews the financial condition of the organizations involved on both a parent-only and consolidated basis, as well as the financial condition of the subsidiary depository institutions and significant nonbanking operations. In this evaluation, the Board considers a variety of information, including capital adequacy, asset quality, and earnings performance. In assessing financial resources, the Board consistently considers capital adequacy to be especially important. The Board also evaluates the financial condition of the resulting organization at consummation, including its capital position, asset quality, earnings prospects, and the impact of the proposed funding of the transaction.

The Board has carefully considered the proposal under the financial factors.[54] The proposed transaction is structured as a share exchange. The subsidiary depository institutions of Wells Fargo and Wachovia are well capitalized and would remain so on consummation of this proposal. Wells Fargo is well capitalized and has announced that it intends to raise additional capital. In light of its capital-raising efforts, Wells Fargo would remain well capitalized after consummation of this proposal. The

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[53] Citigroup contends that its acquisition of Wachovia ultimately would be less costly to the federal government than an acquisition by Wells Fargo. In addition, Citigroup claims that Wells Fargo's acquisition of Wachovia would discourage companies from future involvement in a proposal which, like Citigroup's proposed acquisition of Wachovia, involves FDIC assistance. These comments were weighed in the Board's consideration of the financial and managerial resources of the companies involved in the transaction to the extent they relate to those factors. See Western.

[54] Citigroup asserted that Wells Fargo's financial condition could be adversely affected if a recent IRS ruling that provided banks accelerated tax relief on certain built-in loan losses is invalidated. In analyzing the financial factors in this proposal, the Board has reviewed carefully information regarding the impact of the ruling on Wells Fargo's overall financial condition.

Board has also considered the other financial factors noted above in light of information provided by Wells Fargo and Wachovia and supervisory information available to the Federal Reserve through its supervision of these companies and from the primary supervisors of the depository institution subsidiaries of these companies. Based on its review of the record, the Board finds that Wells Fargo has sufficient resources to effect the proposal.

The Board also has considered the managerial resources of the organizations involved in the proposed transaction. The Board has reviewed the examination records of Wells Fargo and Wachovia, their respective subsidiary depository institutions, and other nonbanking companies involved in the proposal. In addition, the Board has considered its supervisory experience and that of other relevant supervisory agencies, including the OCC and the OTS, with the organizations and their records of compliance with applicable banking law and anti-money laundering laws.

The Board also has considered the future prospects of the organizations involved in the proposal. As part of this evaluation, the Board considered information regarding how Wells Fargo would manage the integration of Wachovia into Wells Fargo.[55] The Board also considered Wells Fargo's extensive experience in acquiring bank holding companies and successfully integrating them into its organization. Moreover, as noted above, the Board found that expeditious approval of the proposal was warranted in light of the weakened condition of Wachovia and the turmoil in the financial markets. The record indicates that Wells Fargo has the financial and managerial resources to serve as a source of strength to Wachovia and its subsidiary depository institutions.

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[55] Citigroup also questioned, in light of the risk profile of Wachovia's assets and the absence of FDIC assistance to the transaction, whether Wells Fargo possesses sufficient financial and managerial resources. The Board has considered carefully this comment in light of information received about Wachovia's asset portfolio from the relevant supervisors of Wachovia's subsidiary banks, other supervisory information, and information received from Wells Fargo, including information about due-diligence reviews performed by Wells Fargo with respect to Wachovia's asset portfolio.

Based on all the facts of record, the Board has concluded that the financial and managerial resources and the future prospects of the organizations involved in the proposal are consistent with approval, as are the other supervisory factors.

Convenience and Needs and CRA Performance Considerations

In acting on a proposal under section 3 of the BHC Act, the Board must consider the effects of the proposal on the convenience and needs of the communities to be served and take into account the records of the relevant depository institutions under the CRA.[56] The Board also must review the records of performance under the CRA of the relevant insured depository institutions when acting on a notice under section 4 of the BHC Act to acquire voting securities of an insured savings association.[57]

The Board has carefully considered the convenience and needs factor and the CRA performance records of the subsidiary depository institutions of Wells Fargo and Wachovia. The Board has considered carefully all the facts of record, including the evaluations of the CRA performance records of the subsidiary depository institutions of Wells Fargo and Wachovia, data reported by Wells Fargo and Wachovia under the Home Mortgage Disclosure Act ("HMDA"),[58] other information provided by Wells Fargo, confidential supervisory information, and comments received on the proposal.[59]

As provided in the CRA, the Board evaluates the record of performance of an institution in light of examinations by the appropriate federal supervisors of the CRA performance records of the relevant institutions. An institution's most recent CRA performance evaluation is a particularly important consideration in the applications

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[56] 12 U.S.C. § 2901 et seq.; 12 U.S.C. § 1842(c)(2).

[57] See, e.g., North Fork Bancorporation, Inc., 86 Federal Reserve Bulletin 767 (2000).

[58] 12 U.S.C. § 2801 et seq.

[59] A commenter expressed concern about certain subprime lending activities of Wells Fargo.

process because it represents a detailed, on-site evaluation of the institution's overall record of performance under the CRA by its appropriate federal supervisor.[60]

Wells Fargo's lead subsidiary insured depository institution, Wells Fargo Bank, National Association, Sioux Falls, South Dakota, received an "outstanding" rating at its most recent CRA performance evaluation by the OCC, as of September 30, 2004. Each of Wells Fargo's other subsidiary insured depository institutions received an "outstanding" or "satisfactory" rating at its most recent CRA performance evaluation.[61]

Wachovia's lead subsidiary insured depository institution, Wachovia Bank, received an "outstanding" rating at its most recent CRA performance evaluation by the OCC, as of June 30, 2006. Wachovia's other subsidiary insured depository institutions also received "outstanding" ratings at their most recent CRA performance evaluations.[62]

The Board also considered the fair lending records of, and the 2007 lending data reported under HMDA by, Wells Fargo and Wachovia in light of comment received on the proposal.[63] Although the HMDA data might reflect certain disparities in the rates of loan applications, originations, denials, or pricing among members of different racial

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[60] The Interagency Questions and Answers Regarding Community Reinvestment provide that a CRA examination is an important and often controlling factor in the consideration of an institution's CRA record. See 64 Federal Register 23,641 (1999).

[61] Appendix D provides the most recent CRA ratings of those institutions.

[62] Wachovia Bank of Delaware, National Association, was last evaluated by the OCC as of June 30, 2006. Wachovia Bank, FSB, and Wachovia Mortgage, F.S.B., formerly known as World Savings Bank, FSB (Texas) and World Savings Bank, FSB, respectively, were last evaluated by the OTS as of August 15, 2005. Wachovia Card Services, National Association, was established in January 2007, and has not yet been evaluated for CRA performance.

[63] A commenter also asserted that Wachovia made a disproportionately larger percentage of higher-cost loans to Hispanic borrowers than to nonminority borrowers. In addition, the commenter referred to news reports that the City of Baltimore filed litigation against Wells Fargo asserting that certain subsidiaries of Wells Fargo had engaged in predatory lending in predominantly African American areas of Baltimore. The litigation is before a court of competent jurisdiction, and the Board and the OCC will continue to monitor is progress and to review Wells Fargo's compliance with fair lending and other consumer protection laws and regulations in future examinations.

or ethnic groups in certain local areas, the data provide an insufficient basis by themselves on which to conclude whether or not Wells Fargo or Wachovia has excluded or imposed higher costs on any group on a prohibited basis. The Board recognizes that HMDA data alone, even with the recent addition of pricing information,[64] provide only limited information about the covered loans.[65] HMDA data, therefore, provide an inadequate basis, absent other information, for concluding that an institution has engaged in illegal lending discrimination.

Accordingly, the Board has taken into account other information, including examination reports by the primary federal supervisors of the organizations' subsidiary institutions that provide on-site evaluations of compliance with fair lending laws by institutions, and has consulted with those supervisors. The record, including confidential supervisory information, also indicates that Wells Fargo has taken steps to ensure compliance with fair lending and other consumer protection laws and regulations, by establishing corporate policies and procedures and implementing audits of compliance management oversight. In addition, Wells Fargo employees involved in the lending process receive fair lending training, and Wells Fargo maintains second-review procedures for home mortgage lending.

Based on a review of the entire record, and for the reasons discussed above, the Board has concluded that considerations relating to the convenience and needs factor

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[64] Beginning January 1, 2004, the HMDA data required to be reported by lenders were expanded to include pricing information for loans on which the annual percentage rate (APR) exceeds the yield for U.S. Treasury securities of comparable maturity by 3 or more percentage points for first-lien mortgages and by 5 or more percentage points for second-lien mortgages. 12 CFR 203.4.

[65] The data, for example, do not account for the possibility that an institution's outreach efforts may attract a larger proportion of marginally qualified applicants than other institutions attract and do not provide a basis for an independent assessment of whether an applicant who was denied credit was, in fact, creditworthy. In addition, credit history problems, excessive debt levels relative to income, and high loan amounts relative to the value of the real estate collateral (reasons most frequently cited for a credit denial or higher credit cost) are not available from HMDA data.

and the CRA performance records of the relevant insured depository institutions are consistent with approval of the proposal.

Public Benefits

As noted above, Wells Fargo has filed a notice under sections 4(c)(8) and 4(j) of the BHC Act for its proposed indirect acquisitions of Wachovia Mortgage, F.S.B. and Wachovia Bank, FSB. As part of its evaluation of the public interest factors under section 4 of the BHC Act, the Board has reviewed carefully the public benefits and possible adverse effects of the proposal. The record indicates that consummation of the proposal would benefit consumers currently served by Wachovia's subsidiary savings associations by providing them access to additional banking and nonbanking products and services of Wells Fargo. As noted, the proposal would also strengthen Wachovia and all its subsidiary depository institutions.

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

As noted, Wells Fargo also has provided notice under sections 25 and 25A of the FRA and the Board's Regulation K to acquire the agreement corporation and Edge Act subsidiaries and the foreign operations of Wachovia. The Board concludes that all factors required to be considered under the FRA and the Board's Regulation K are consistent with approval.

Conclusion

Based on the foregoing, the Board determined in its order of October 12 that the application and notices should be approved.[66] In reaching its conclusion, the Board considered all the facts of record in light of the factors that the Board is required to consider under the BHC Act. As noted in the Board's order, the Board's approval is specifically conditioned on compliance by Wells Fargo with all the commitments made to the Board in connection with the application and notices, including the commitments and conditions discussed in this order. The Board's approval of the nonbanking aspects of the proposal also is subject to all the conditions set forth in Regulation Y, including those in sections 225.7 and 225.25(c),[67] and to the Board's authority to require such modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to ensure compliance with, and to prevent evasion of, the provisions of the BHC Act and the Board's regulations and orders issued

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66 A commenter requested that the Board hold a public meeting or hearing on the proposal. Section 3 of the BHC Act does not require the Board to hold a public hearing on an application unless the appropriate supervisory authority for the bank to be acquired makes a written recommendation of denial of the application. The Board has not received such a recommendation from the appropriate supervisory authorities. The Board's regulations provide for a hearing on a notice filed under section 4 of the BHC Act if there are disputed issues of material fact that cannot be resolved in some other manner. 12 CFR 225.25(a)(2). Under its rules, the Board also may, in its discretion, hold a public meeting or hearing on an application to acquire a bank if necessary or appropriate to clarify factual issues related to the application and to provide an opportunity for testimony. 12 CFR 225.16(e), 262.25(d). The Board has considered carefully the commenter's requests in light of all the facts of record. The commenter's request fails to demonstrate why its written comments do not present its views adequately or why a meeting or hearing otherwise would be necessary or appropriate. In addition, in light of the unusual and exigent circumstances affecting the financial markets, the weakened financial condition of Wachovia, and all other facts and circumstances, the Board waived public notice of this proposal. For these reasons, and based on all the facts of record, the Board has determined that a public meeting or hearing was not required or warranted in this case, and the request for a public meeting or hearing on the proposal is accordingly denied.

67 12 CFR 225.7 and 225.25(c).

thereunder. These commitments and conditions are deemed to be conditions imposed in writing by the Board in connection with its findings and decision and, as such, may be enforced in proceedings under applicable law.

October 21, 2008

(SIGNED)

Robert deV. Frierson
Deputy Secretary of the Board

APPENDIX A

Computation of the Amount of Deposits Held by Institutions
Using the Revised Call Report and Thrift Financial Report Forms

Insured Banks without Foreign Deposits

The amount of deposits held by insured banks without foreign deposits using the revised Call Report was computed by adding the "Total deposit liabilities before exclusions (gross) as defined in Section 3*(1)* of the FDI Act and FDIC regulations," reported on Schedule RC-O, and the "Interest accrued and unpaid on deposits in domestic offices," reported on Schedule RC-G.

Insured Banks with Foreign Deposits

The amount of deposits held by insured banks with foreign deposits using the revised Call Report was computed by subtracting "Total foreign deposits" from the "Total deposit liabilities before exclusions (gross) as defined in Section 3*(1)* of the FDI Act and FDIC regulations," reported on Schedule RC-O, and adding the "Interest accrued and unpaid on deposits in domestic offices," reported on Schedule RC-G.

Insured Savings Associations

The amount of deposits held by insured savings associations using the revised Thrift Financial Report was computed by subtracting "Total foreign deposits" from the "Total deposit liabilities before exclusions (gross) as defined in Section 3*(1)* of the FDI Act and FDIC regulations," reported on Schedule DI, and adding the "Accrued Interest Payable – Deposits," reported on Schedule SC.

APPENDIX B

Wells Fargo/Wachovia Banking Markets Consistent with Board Precedent and DOJ Guidelines Without Divestitures

Data are as of June 30, 2007, adjusted to reflect merger and acquisitions through October 3, 2008. All rankings, market deposit shares, and HHIs are based on thrift deposits weighted at 50 percent, except for the savings association deposits of Wachovia, which are weighted at 100 percent both before and after consummation of the proposal. These savings associations are, and on consummation will continue to be, controlled by a bank holding company.

Arizona Banking Markets

Market	Increase in HHI	Pro Forma HHI	Pro Forma Market Share	Pro Forma Rank
Phoenix	164	1874	23.9	2
Prescott	395	1708	28.7	1
Tucson	261	1767	26.5	1

California Banking Markets

Market	Increase in HHI	Pro Forma HHI	Pro Forma Market Share	Pro Forma Rank
Chico	344	1702	26.2	1
Fresno	185	1322	20.1	2
Hesperia-Apple Valley-Victorville	265	1607	23.7	1
Lake County	183	1732	27.1	1
Los Angeles	107	957	16.3	2
Modesto	275	1215	23.5	1
Napa	493	1593	31.7	1
Oxnard-Thousand Oaks-Ventura	361	1607	27.2	1
Palm Springs-Cathedral City	219	1148	21.1	1
Riverside-San Bernardino	70	1541	15.0	2
Sacramento	414	1550	30.8	1

California Banking Markets (continued)				
Salinas	239	1722	22.3	2
San Diego	198	1265	22.8	1
San Francisco-Oakland-San Jose	236	1681	28.3	1
Santa Barbara	149	1672	17.4	2
Santa Maria	264	1702	24.5	2
Santa Rosa	179	1168	19.7	1
Stockton	209	1229	21.2	1
Temecula	307	1538	25.3	1
Colorado Banking Markets				
Market	Increase in HHI	Pro Forma HHI	Pro Forma Market Share	Pro Forma Rank
Colorado Springs	388	1193	29.2	1
Denver-Boulder	324	1185	28.0	1
Fort Collins-Loveland	88	1428	15.2	2
Pueblo	571	1797	34.1	1
Weld County	46	1959	12.6	2
Illinois Banking Market				
Market	Increase in HHI	Pro Forma HHI	Pro Forma Market Share	Pro Forma Rank
Chicago	0	775	0.6	25
Nevada Banking Markets				
Market	Increase in HHI	Pro Forma HHI	Pro Forma Market Share	Pro Forma Rank
Las Vegas	16	3547	5.6	3
Reno	69	2697	17.4	2

Texas Banking Markets				
Market	Increase in HHI	Pro Forma HHI	Pro Forma Market Share	Pro Forma Rank
Amarillo	60	2725	12.9	2
Austin	157	1152	20.5	1
Beaumont-Port Arthur	234	1701	23.9	2
Dallas	19	1591	6.4	4
Fort Worth	6	5894	4.5	3
Houston	100	1806	14.3	2
San Antonio	28	2243	8.3	4

For purposes of this appendix, the definitions of the banking markets in Arizona, California, and Nevada may be found on the website of the Federal Reserve Bank of San Francisco, *http://www.frbsf.org/publications/banking/market/marketdef.pdf*; in Colorado on the website of the Federal Reserve Bank of Kansas City, *http://www.kansascityfed.org/home/subwebnav.cfm?level=3&theID=9638&SubWeb=2*; and in Texas on the website for the Federal Reserve Bank of Dallas, *http://dallasfed.org/banking/apps/mkdef.html*.

The Chicago, Illinois banking market is defined as Cook, Du Page, and Lake Counties in Illinois.

APPENDIX C

Wells Fargo/Wachovia Banking Markets Consistent with Board Precedent and DOJ Guidelines After Divestitures

Data are as of June 30, 2007, adjusted to reflect merger and acquisitions through October 3, 2008. All rankings, market deposit shares, and HHIs are based on thrift deposits weighted at 50 percent, except for the savings association deposits of Wachovia, which are weighted at 100 percent both before and after consummation of the proposal. These savings associations are, and on consummation will continue to be, controlled by a bank holding company.

California Banking Markets

Market	Change in HHI	Pro Forma HHI	Pro Forma Market Share	Pro Forma Rank
Davis	0	1852	18.3	3
Grass Valley	0	1558	13.9	5
Monterey-Seaside-Marina	147	1595	26.6	1
Sonora	-222	1685	30.9	1

Colorado Banking Market

Market	Change in HHI	Pro Forma HHI	Pro Forma Market Share	Pro Forma Rank
Fremont County	0	1726	15.3	4

For purposes of this appendix, the definitions of the banking markets in California may be found on the website of the Federal Reserve Bank of San Francisco, *http://www.frbsf.org/publications/banking/market/marketdef.pdf.*
The Fremont County, Colorado banking market is defined as Fremont County.

APPENDIX D

Most Recent CRA Ratings of Wells Fargo's Subsidiaries

Subsidiary Bank	CRA Rating	Date	Supervisor
Wells Fargo Bank Northwest, National Association, Ogden, UT	Satisfactory	December 2005	OCC
Wells Fargo HSBC Trade Bank, National Association, San Francisco, CA	Outstanding	June 2006	OCC
Wells Fargo Financial National Bank, Las Vegas, NV	Outstanding	June 2006	OCC
Wells Fargo Financial Bank, Sioux Falls, SD	Outstanding	March 2005	FDIC
Shoshone First Bank, Cody, WY	Outstanding	February 2003	FRB
Sheridan State Bank, Sheridan, WY	Satisfactory	February 2008	FRB
First State Bank of Pinedale, Pinedale, WY	Satisfactory	August 2007	FRB
Jackson State Bank and Trust, Jackson, WY	Satisfactory	July 2006	FRB