United States General Accounting Office

GAO

Report to the Honorable Maxine Waters and the Honorable Bernard Sanders, House of Representatives

September 1999

FEDERAL RESERVE BOARD

Merger Process Needs Guidelines for Community Reinvestment Issues

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GAO/GGD-99-180

United States General Accounting Office
Washington, D.C. 20548

General Government Division

B-280468

September 24, 1999

The Honorable Maxine Waters
The Honorable Bernard Sanders
House of Representatives

As you requested, this report discusses large bank holding company[1] (BHC) mergers and the impact of such mergers on lending in low- and moderate-income (LMI) areas.[2] In reviewing BHC merger applications, the Federal Reserve Board (FRB) has a statutory responsibility, established by the Bank Holding Company Act of 1956 (BHC Act) and the Community Reinvestment Act of 1977 (CRA), to take into account an institution's record of community credit performance when evaluating the application. In addition, the BHC Act requires that FRB take into account the convenience and needs of the community to be served when reviewing BHC merger applications.

As agreed with your offices, our objectives were to analyze (1) FRB's legal responsibilities in assessing BHC mergers for CRA performance; (2) FRB's process for assessing the CRA performance of six large BHC merger applicants, including how FRB addressed the principal public concerns related to the CRA performance; and (3) the premerger and postmerger mortgage lending in LMI and minority communities for three large BHC mergers. To meet the first two objectives, we focused on six of the largest bank mergers in the period of 1995-98.[3]

[1] A bank holding company consists of a parent company with one or more subsidiaries that may include banks, thrifts, and other entities providing services that the regulators consider closely related to banking.

[2] You also asked us to discuss the impact of large bank mergers and enforcement of the Fair Housing Act and the Equal Credit Opportunity Act (collectively, the fair lending laws). We are conducting a separate assignment and issuing another report to address these issues.

[3] The six large BHC mergers we reviewed were (1) NBD Bancorp, Inc.'s acquisition of First Chicago Corporation in 1995; (2) Fleet Financial Group's acquisition of Shawmut National Corporation in 1995; (3) Chemical Banking Corporation's acquisition of Chase Manhattan Corporation in 1996; (4) NationsBank Corporation's acquisition of Boatmen's Bancshares, Inc. in 1997; (5) NationsBank Corporation's acquisition of BankAmerica Corporation in 1998; and (6) Bank One Corporation's acquisition of NBD First Chicago Corporation in 1998.

Results in Brief

In acting on a bank holding company merger application, FRB must consider the convenience and needs of the community to be served under the BHC Act and take into account the record of the relevant depository institutions under CRA. Neither the BHC Act nor CRA, or their legislative histories, provide guidance on how FRB is to take these factors into account when considering a BHC merger application. The depository institutions' primary federal regulators have developed guidance for their assessments of a depository institution's CRA performance. However, FRB has not developed guidance on how it evaluates the CRA records, including the performance ratings and public comments comprising that record, of the merging BHCs.

For the six BHC merger applications that we reviewed, FRB attempted to balance the regulators' ratings of the depository institutions' CRA performance and information presented through public comments that raised concerns with the institutions' CRA records. All of the bank subsidiaries included in the six mergers had satisfactory or outstanding performance ratings in their most recent CRA examinations. The principal CRA concerns raised by commenters included insufficient home mortgage lending, insufficient small business lending, and branch closures in LMI areas. FRB analyzed Home Mortgage Disclosure Act of 1975 (HMDA) and small business data to address concerns of insufficient home mortgage and small business lending, respectively. FRB's consideration of branch closures was generally limited to a determination of whether the applicant had an adequate branch closure policy and its past branch closure record. FRB approved all six mergers, but four of the mergers were approved with conditions for the reporting of subsequent branch closures. FRB's lack of written guidance on how it addresses public comments raising CRA concerns contributed to the concerns voiced by community groups and the BHC applicants regarding the lack of transparency in the merger application process. In this report, we recommend that FRB address this lack of transparency.

On the basis of our analysis of home mortgage lending, BHC merger activity had not been associated with adverse changes in single-family home mortgage lending in minority and LMI areas in the major metropolitan areas served by the acquired BHCs for the three BHC mergers we analyzed. NBD's acquisition of First Chicago and Chemical's acquisition of Chase Manhattan have been associated with stable to increased lending in the relevant areas. Fleet's acquisition of Shawmut has been associated with a decline in Fleet's market share in the relevant areas that mirrored its decline in overall market share in the Boston metropolitan statistical area.

Background

Under the BHC Act, a bank holding company must obtain FRB's approval before merging with or acquiring another bank holding company. In reviewing an application filed by a bank holding company, FRB is required to consider several factors, including the financial and managerial resources of the applicant, the future prospects of both the applicant and the bank holding company that is to be acquired, the competitive effects of the merger, and the convenience and needs of the community to be served. Even before CRA was enacted, FRB's regulations called for public comments in connection with the merger applications pursuant to the BHC Act obligation of FRB to ensure that the merger would meet the convenience and needs of the local community. The Board of Governors has the authority to delegate its application authority to the Reserve Banks if the application fits certain criteria. However, an application may raise several issues that might require Board Action under such factors as the financial, managerial, and convenience and needs of the community, including the CRA performance of the applicant.

FRB approved the six BHC mergers in our study. With the exception of NBD's acquisition of First Chicago and Bank One's acquisition of NBD First Chicago, the lead bank subsidiaries[4] also took actions to merge their operations. Bank subsidiaries are also required to receive approval from their primary regulators for such combinations. For three BHC mergers, the lead bank subsidiaries of the merging BHCs submitted their applications to their primary regulators after FRB approved their BHC applications.

CRA requires all federal bank and thrift regulators—FRB, the Office of the Comptroller of the Currency (OCC), the Office of Thrift Supervision (OTS), and the Federal Deposit Insurance Corporation (FDIC)—to encourage depository institutions under their jurisdiction to help meet the credit needs in all areas of the community that the institution is chartered to serve, consistent with safe and sound operations. CRA requires that the appropriate federal supervisory authority (1) assess the institution's record of meeting the credit needs of its entire community, including LMI areas, and (2) take that record into account in its evaluation of bank expansion applications. Such applications include those to establish or relocate a branch or home office and applications for mergers, consolidations, or the purchase of assets or assumption of liabilities of a regulated financial institution. Assessment areas, also called delineated areas, represent the

[4] In this report, we refer to banks and thrifts that are subsidiaries of BHCs as bank subsidiaries. Lead bank subsidiary means the largest insured depository institution controlled by the bank holding company at any time.

communities for which the regulators are to assess an institution's record of CRA performance. CRA also requires the regulators to periodically assess an institution's community lending performance during examinations. Only insured banks and thrifts are subject to the provisions of CRA. On the basis of the findings of the examination, depository institutions are assigned a rating—that is, outstanding, satisfactory, needs to improve, or substantial noncompliance. Nonbank financial institutions, such as mortgage companies, are not subject to CRA provisions.[5]

Unlike certain other banking laws, CRA does not provide regulators with the authority to take enforcement action on the basis of findings of noncompliance resulting from the examination process. The CRA application evaluation process is the exclusive mechanism for enforcing the statute. Regulations proposed in 1993 and 1994 by the regulators included a new set of sanctions to enforce CRA. According to the proposed regulations, a poor CRA rating would have been considered a violation of a bank's affirmative obligation to meet the credit needs of its entire community. A bank that received a CRA rating of substantial noncompliance would have been subject to enforcement actions authorized by the Federal Deposit Insurance Act.[6] In a letter to OCC dated December 15, 1994, the Department of Justice (Justice) concluded that the agencies lack legal authority to use cease and desist orders and civil money penalties to combat noncompliance with CRA. The final regulations did not contain the enforcement provisions, but, consistent with the statute, did require that the CRA record be taken into account in the application process.

Since the initial enactment of CRA, the regulations that implement the act have been amended.[7] In 1993, the Clinton Administration instructed the federal bank regulators to revise the CRA regulations by moving from a process- and paperwork-based system to a performance-based system focusing on results, especially the results in LMI areas of an institution's communities. Based on these instructions, the federal banking agencies replaced the qualitative CRA examination system with a more quantitative system that is based on actual performance. For large retail institutions, CRA performance is measured through the use of three tests as follows.

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[5] In this report, we refer to BHC subsidiaries that are not insured depository institutions, such as mortgage companies, as nonbank subsidiaries.

[6] Section 8 of the Federal Deposit Insurance Act provides enforcement mechanisms to the regulators for violations of banking law. Among the mechanisms are cease and desist orders and civil money penalties.

[7] FRB implemented CRA with its Regulation BB.

- The lending test entails a review of an institution's lending record, including originations and purchases of home mortgage, small business, small farm, and, at the institution's option, consumer loans throughout the institution's service area, including the LMI areas. The lending test is weighted more heavily than the investment and service tests in the institution's overall CRA rating.
- The investment test evaluates an institution's investment in community development activities.
- The service test requires the examiner to analyze an institution's system for delivering retail banking services and the extent and innovativeness of its community development services.

In May 1995, the bank regulators issued the new CRA regulations (the performance-based CRA regulations).[8] For large institutions, the performance-based CRA regulations became effective on July 1, 1997. Therefore, CRA ratings that FRB relied upon in the six merger applications we considered were mostly from the previous process- and paperwork-based system.

Most of the bank subsidiaries of the BHCs we reviewed were national banks regulated by OCC. The exception was Chemical Bank, which is a state-chartered bank regulated by FRB and the New York State Banking Supervisor.

HMDA was enacted to provide regulators and the public with information on home mortgage lending so that both could determine whether institutions were serving the credit needs of their communities.[9] HMDA was amended in 1989 to include the collection of data on the race, sex, and income of applicants and the action taken on the application. Home mortgage lenders that are required to report are to submit HMDA data files for each loan application. HMDA reporting requirements first only applied to banks and their subsidiaries. Over the years, Congress has expanded HMDA's coverage to include mortgage banking subsidiaries of bank holding companies and independent mortgage companies that have assets above a certain level and a home or branch office in a metropolitan statistical area (MSA). For data collection in 1998, depository institutions with an office in an MSA are covered if they had more than $29 million in assets as of December 31, 1997. Nondepository lenders are covered if they were located in or made loans in metropolitan areas and had assets of

[8] A previous report, Community Reinvestment Act: Challenges Remain to Successfully Implement CRA, (GAO/GGD-96-23, Nov. 28, 1995), analyzed CRA and its implementing regulations.

[9] FRB implemented HMDA with its Regulation C.

more than $10 million or if they originated 100 or more home purchase loans in the preceding year.

FRB's Regulation BB describes the data that depository institutions are required to collect and maintain for CRA purposes. Under revisions of Regulation BB, depository institutions defined as "large" were required, beginning in 1996, to collect and report data annually on the number and dollar amount of their originations and purchases of small loans to businesses and farms and on any community development loans. Only independent institutions with total assets of $250 million or more and institutions of any size if owned by a holding company that has assets of $1 billion or more are subject to the data reporting requirements. The Federal Financial Institutions Examination Council (FFIEC) made the CRA data on 1996 small business lending available to the public in October 1997.[10] The data on business and farm lending reported under the CRA regulations are more limited in scope than data reported on home mortgage lending under HMDA. In particular, the CRA data include information only on loans originated or purchased, not on applications that are turned down or withdrawn by the customer. Also, unlike HMDA data, the CRA data do not include the income, sex, or racial or ethnic background of applicants. Finally, again unlike HMDA data, the CRA data are not reported and disclosed application by application; rather, the data are aggregated into three loan-size categories and then reported at the census tract level.

Scope and Methodology

To determine FRB's legal responsibilities for assessing CRA performance, we reviewed the BHC Act and CRA, their legislative histories, regulations promulgated under each act, and related published materials.

To assess FRB's process for reviewing BHC merger applications for CRA performance, we used a case study approach. We selected, on the basis of the assets of the acquired BHC, the two largest BHC mergers in 1995, the single largest BHC merger in 1996 and again in 1997, and the two largest BHC mergers in 1998.[11] We reviewed the CRA public evaluation reports of the lead bank subsidiaries of the BHCs included in our case studies, internal FRB memorandums and analyses conducted in conjunction with the six merger applications, orders publicly issued by the Board of Governors containing approval of each merger, public comment letters,

[10] The member agencies of FFIEC include OCC, FDIC, OTS, FRB, and the National Credit Union Administration. For HMDA–related matters, the Department of Housing and Urban Development also participates in FFIEC deliberations.

[11] In this report, we refer to the applicant as the BHC that acquired the target BHC. We refer to the consummation of the transaction as the merger.

and FRB summaries of concerns raised in public comment letters. The scope of our reported findings on how FRB addressed the principal public concerns was limited by the confidentiality of particular FRB analyses and conclusions.

FRB's process for the six mergers in our study cannot be generalized to all large BHC mergers because of the small sample size (i.e., six mergers) and the judgment involved in selecting the sample.

We focused on FRB's BHC merger application process in reviewing the six mergers. We did not assess the quality of previous CRA examinations conducted by primary banking regulators or the accuracy of public comments. We also did not verify the accuracy of data and other inputs relied upon by FRB in its review of the six merger applications.

To address the third objective on premerger and postmerger home mortgage lending for three of the six mergers completed in 1995 and 1996, we obtained and analyzed HMDA data. We did not verify the accuracy of the HMDA data.

In addressing our three objectives, we interviewed officials from FRB, the Federal Reserve Bank of New York, OCC, the Office of New York State's Supervisor of Banking, the BHCs included in our case studies, the American Bankers' Association, the Consumer Bankers' Association, and a selected number of community groups submitting public comments in opposition to the mergers included in our case studies. We also reviewed relevant published literature on CRA, home mortgage lending, and the use of HMDA data.

Appendix I provides a more detailed discussion of our scope and methodology.

We conducted our work in Charlotte, NC; Chicago, IL; New York, NY; and Washington, D.C., between June 1998 and August 1999 in accordance with generally accepted government auditing standards. We requested comments on a draft of this report from FRB and OCC. FRB's and OCC's written comments are discussed near the end of this letter and are reprinted in appendixes VI and VII, respectively. In addition, we provided Bank One, Chase Manhattan, and Fleet the section of our draft report from our HMDA analysis on their respective institutions. We incorporated their technical comments where appropriate.

Guidance Has Not Been Developed for Implementing the BHC Act and CRA in the BHC Merger Application Process

In acting on a BHC merger application, FRB must consider the convenience and needs of the community to be served under the BHC Act and take into account the records of the relevant depository institutions under CRA. Neither the BHC Act nor CRA, or their legislative histories, provide guidance on how FRB is to take into account the convenience and needs of the community when considering a BHC merger application. The federal regulators, including FRB, have developed guidance on how to assess a depository institution's CRA performance. However, FRB has not developed guidance on how it will evaluate the CRA record, comprising the regulators' ratings of institutions' CRA performance and comments from the public, for large BHC merger applications.

The BHC Act Calls for FRB's Review of Impacts on Convenience and Needs

Under the BHC Act, FRB is required to review the bank holding company's merger application for the convenience and needs of the communities to be served. FRB has defined convenience and needs to relate to the effect of a proposal on the availability and quality of banking services in a community. FRB considers convenience and needs as including the record of CRA performance. The requirement to consider the convenience and needs of the community has been included as part of the BHC Act since its original enactment in 1956. In the 1970s, Congress increased the need for depository institutions to focus on the convenience and needs of local communities when it passed CRA. CRA was passed in response to a national concern over redlining[12] practices.

CRA requires federal regulators, including FRB, to take into account the CRA record of the applicant in their evaluation of an application related to a deposit facility. CRA defines applications to include (1) applications to establish or relocate a branch or home office and (2) applications for mergers, consolidations, or the purchase of assets or assumption of liabilities of a regulated financial institution. Nonbank subsidiaries of BHCs are not subject to CRA. However, CRA regulations allow bank subsidiaries of BHCs to receive CRA credit for home mortgage loans originated by affiliated nonbank subsidiaries in the delineated areas of the bank subsidiaries.

[12] Redlining is a refusal of lenders to make loans in certain geographic areas, typically minority or low-income neighborhoods, regardless of the creditworthiness of the loan applicant.

Federal Bank Regulators Have Developed Guidance for Assessing CRA Performance During the Application Process for Depository Institutions

The federal depository institution regulators, including FRB, have developed guidance, using rulemaking and additional efforts, on how CRA performance should be considered during the applications process for depository institutions. In 1989, the federal bank regulators published The Statement of the Federal Financial Supervisory Agencies Regarding the Community Reinvestment Act (the Statement). The Statement was designed to provide federally insured financial institutions and the public with guidance regarding the requirements of CRA and the policies and procedures the agencies will apply during the depository institution application process. After the performance-based CRA regulations were issued in 1995, FFIEC published Interagency Questions and Answers Regarding Community Reinvestment in 1997 and 1999. The 1989 Statement was withdrawn effective April 5, 1999, and replaced by the Interagency Questions and Answers Regarding Community Reinvestment.[13]

The 1989 Statement, which was in effect during the mergers contained in our study, included guidance on the following issues:

- the basic components of an effective CRA policy,
- the role of examination reports on CRA performance in reviewing applications,
- the need for periodic review and documentation by financial institutions of their CRA performance, and
- the role of commitments in assessing an institution's performance.

Most notably, the regulators concluded in the Statement that the CRA record of the institution, as reflected in its examination reports, would be given great weight in the application process. In the Interagency Questions and Answers for 1999, the regulators continued to stress the significance of the CRA examination in the application process, and they stated that the examination is an important, and often controlling, factor in the consideration of an institution's record.[14]

In addition to the CRA examination, the regulators have consistently underscored the importance of public comments to the applications process. According to the 1989 Statement, the CRA examination is not conclusive evidence in the face of significant and supported allegations from a commenter. Moreover, the balance may be shifted further when the examination is not recent or the particular issue raised in the

[13] Questions and Answers Regarding Community Reinvestment, 64 Fed. Reg. 23618-23648 (1999).

[14] 64 Fed. Reg. at 23641.

application proceeding was not addressed in the examination. During the development of the performance-based CRA regulations, a number of commenters expressed concern that the regulators may provide a "safe harbor" to depository institutions from challenges to their CRA performance record in the application process if they achieved an outstanding CRA examination rating. However, in the preamble of the 1995 Final Rule on the CRA regulations, the regulators reconfirmed the importance of the public comments in the applications process by acknowledging that materials relating to CRA performance received during the applications process can and do provide relevant and valuable information.

Board Orders Explain BHC Application Decisions

For each BHC application submitted, FRB publicly issues an Order containing its application decision and a discussion supporting its decision. FRB officials told us that Board Orders provide a detailed explanation of how the Board arrived at its decision and puts the facts into the context of the specific case at hand. In the FRB officials' view, Board Orders provide guidance on FRB's BHC application process. We reviewed the Board Orders approving the six BHC merger applications in our study. The Orders provided insight into issues considered by the Board of Governors. For example, the Orders discussed FRB's consideration of CRA performance ratings received by bank subsidiaries, recent trends in home mortgage lending by the BHCs, and CRA agreements reached by BHCs with community groups. FRB's treatment of the various CRA issues appeared to be consistent with that suggested in the 1989 Statement for assessing CRA performance.

FRB Has Not Developed Additional Guidance on How It Evaluates an Institution's CRA Performance in the BHC Merger Application Process

The BHC Act requires FRB's approval for formation of a BHC, BHC acquisition of control of another BHC or a subsidiary bank or bank assets, or the merger of BHCs. There were nearly 6,000 BHCs operating as of year-end 1998; almost 700 BHC cases of applications were submitted to the Federal Reserve for approval in 1998. Of these, over 400 were for mergers and acquisitions. Consistent with the Statement for assessing CRA performance, FRB regulations provide that FRB will take into account the record of performance under CRA of each insured bank and thrift controlled by a BHC applicant and each subsidiary bank proposed to be controlled by an applicant. FRB officials told us that if an institution was examined recently, FRB would be more likely to rely on the rating given by the bank's primary regulator. If the CRA exam is not recent or there have been significant public comments raising concerns, FRB would be more likely to undertake a review of the institution's CRA performance and obtain more information from the primary bank regulator. FRB considers the CRA performance of the BHC in the delineated areas of its bank subsidiaries.

Also consistent with the Statement for assessing CRA performance, FRB regulations require public notice of a BHC application and a specific public comment period. FRB does not have written guidelines that summarize how public comments raising CRA concerns are to be used along with other information in its BHC merger application decisions. An FRB Associate General Counsel told us that although the BHC Act does not require a public comment period, FRB voluntarily adopted the requirement of a notice, comment, and specific comment period because FRB found the public process helpful.

FRB's Rules of Procedure state that an applicant must file notice of the application in the classified advertising legal notices section of the local newspaper. The notice must state that the public has an opportunity to comment for at least 30 days after the date of publication.[15] Under the revised Regulation Y, FRB will not accept late written comments except in extraordinary circumstances. FRB can extend, and has extended, the 30-day time frame. According to Regulation Y, the 30-day comment period is required for all BHC merger applications to acquire an insured depository institution whether the applications are Board Action cases or delegated to the Reserve Banks for a decision. BHC officials we interviewed told us that FRB's adherence to the public comment period deadlines was better than it had been in previous BHC mergers.

Relatively few BHC mergers have been protested on CRA grounds. As shown in table 1, the number of BHC merger/acquisition cases that received CRA protests was small during the period of 1995-98.[16] In 1998, the total number of BHC acquisition/merger cases that were protested on CRA grounds was 18 cases out of 424 BHC merger/acquisition cases.

[15] FRB may, in its discretion, extend the public comment period and, if a person has requested a copy of a notice or application, FRB may, in its discretion, grant such person an extension of the comment period for up to 15 calendar days.

[16] We included data on both BHC acquisitions and mergers. Sections 3(a)(3) and 3(a)(5) of the BHC Act require approval for BHC acquisitions and mergers, respectively. In an acquisition, the applicant is a BHC and the target institution may be a BHC or a bank subsidiary. In a merger, both the applicant and the target are BHCs. Determining whether a BHC application was an acquisition or merger depends on how the transaction was structured.

Table 1: Number of BHC Merger/Acquisition Cases Receiving CRA Protests

	BHC merger/acquisition cases		
		Protested	
Year	Total	Number	Percentage of total cases
1995	386	40	10.4%
1996	359	30	8.4
1997	347	16	4.6
1998	424	18	4.2

[a]Protested means those BHC mergers/acquisitions in which FRB received substantive comments regarding a BHC's lending record or CRA record.

Source: FRB.

The Statement for assessing CRA performance does not specifically address issues that arise in BHC merger application decisions, such as the consideration to be given to the activities of nonbank subsidiaries. Large BHCs comprise bank subsidiaries that are subject to CRA operating in delineated areas and may include nonbank subsidiaries, such as mortgage lending companies, that are not subject to CRA operating within and outside of the delineated areas of the bank subsidiaries. However, CRA regulations allow bank subsidiaries of BHCs to receive CRA credit for home mortgage loans originated by their affiliated nonbank subsidiaries in the delineated areas of the bank subsidiaries.

FRB's CRA Performance Review Process for the Six Large BHC Merger Applications Lacked Transparency

In reviewing the six BHC merger applications, it appeared to us that FRB attempted to balance the CRA performance ratings with information that raised concerns with the institutions' CRA performance obtained through the public comment process. All of the bank subsidiaries in our selected merger cases received a satisfactory or better CRA rating from their primary federal bank regulator. The four principal CRA concerns raised in public comments were (1) an insufficient amount of home mortgage lending in LMI areas, (2) an insufficient amount of small business lending in LMI areas, (3) expected bank branch closures in LMI areas, and (4) a lack of specificity in CRA agreements. FRB appeared to give more weight to CRA performance ratings and concerns with home mortgage and small business lending than to other concerns raised. FRB conducted analyses with HMDA and CRA small business data to address concerns of insufficient home mortgage and small business lending, respectively. FRB's consideration of branch closures was generally limited to a determination of whether the applicant had an adequate branch closure policy and its past branch closure record. According to FRB officials, CRA agreements[17] did not play a role in FRB's assessment of the six merger

[17]There is no consensus among banks and community groups on a definition of a CRA agreement. CRA agreements can be called agreements, pledges, or commitments. The level of involvement by the

cases. FRB does not have written guidance on how it considers the sufficiency of home mortgage and small business lending or what branch closure policy it would consider adequate. FRB's lack of written guidance on how it addresses public comments contributed to the concerns voiced by the community groups and BHC applicants we contacted regarding the lack of transparency in the merger application process.

All of the Bank Subsidiaries Received a Satisfactory Rating or Better

All of the bank subsidiaries in the six merger cases received a CRA performance rating of satisfactory or better. Over half of the lead bank subsidiaries owned by the applicants and the target institutions received an outstanding CRA rating from their primary bank regulators. CRA performance ratings for the bank subsidiaries in our study are presented in appendix II.

The CRA ratings of the bank subsidiaries in our study were similar to the CRA ratings of their peers. As table 2 shows, all large bank subsidiaries (assets of $10 billion or greater) examined by OCC and FRB received either outstanding or satisfactory ratings during the period of 1995-98.

Table 2: The Distribution of CRA Performance Ratings for Large Banks Examined by OCC and FRB, 1995-98

	Performance rating				
Regulator	Outstanding	Satisfactory	Needs to improve	Substantial noncompliance	Number of banks
OCC	17	9	0	0	26
FRB	12	12	0	0	24

Sources: FRB and OCC.

For all BHC mergers, including the six cases that we reviewed, FRB's Division of Consumer and Community Affairs (DCCA)[18] screened the most recent CRA ratings of both the bank subsidiaries of the applicant institution and the target institution. According to FRB officials, this task was a major component of FRB's review of each merger application. Absent any ratings issues or CRA allegations, according to DCCA officials, DCCA generally focuses its CRA examination analysis on the lead banks of the applicant and the target institution. Since the new CRA regulations for large banks were not effective until July 1997, almost all of the public evaluation reports on the lead banks of the BHCs involved in the six BHC

community groups and the level of specificity differentiates the various types of agreements. In some cases, community groups negotiate with the banks regarding specific CRA goals to be reached in the community. These are referred to as negotiated agreements. Another type of community agreement is a pledge. Generally, banks that make pledges consider input from community groups, but the bank unilaterally formulates the final pledge.

[18] Among its responsibilities, DCCA is charged with reviewing bank and bank holding company applications for CRA and compliance issues.

mergers were completed under the old process-oriented CRA regulations. According to the DCCA Manager for Applications, DCCA will do additional analysis on the CRA records of the applicant and the target institution when comments regarding the institutions' CRA records are sent.

DCCA Was Dependent on CRA Examination Information From the Other Federal Bank Regulators for Assessing the CRA Performance of Large BHCs

DCCA was generally dependent on CRA examination information from the other federal bank regulators for assessing the CRA performance of large BHCs. In the six merger cases, FRB did not have its own on-site CRA information on the bank subsidiaries.[19] A federal regulator other than the FRB supervised almost all of the bank subsidiaries of the BHCs in the six merger cases. Of the six merger cases, only the lead bank of the Chemical Banking Corporation was supervised by FRB. The lead banks of the other 11 BHCs were supervised by OCC. DCCA staff told us that FRB does not second-guess the CRA examinations conducted by the other federal bank regulators. The purpose of FRB's review of the CRA record is not to reexamine the banks for CRA compliance.

We were told by DCCA analysts that after the initial screening of the CRA ratings, they reviewed the most recent public evaluation report of the lead bank of the applicant and the target institution. If the DCCA analyst determined it was warranted, he or she talked with the OCC CRA compliance examiner. In three of the five merger cases in which FRB was not the primary bank regulator of the lead bank of the applicant—Fleet-Shawmut, NationsBank-BankAmerica, and Bank One-NBD First Chicago, DCCA analysts contacted OCC for additional supervisory information. FRB officials told us that additional supervisory information was not obtained in the NationsBank-Boatmen's merger because the July 1995 CRA examination of NationsBank was relatively current.

In two of the merger cases, NationsBank-BankAmerica and Bank One-NBD First Chicago, DCCA reviewed CRA information from OCC that was more than 2 years old. During the application review, OCC was examining the lead banks of both NationsBank and Bank One. In the absence of recent examinations of the lead banks, DCCA analysts obtained limited information from OCC's ongoing examinations for these two cases. According to an OCC official, the implementation of OCC's new performance-based CRA examination procedures for the 30 largest national banks caused delays in the frequency of examinations for these institutions.

[19] Bank holding companies are not subject to CRA; therefore, they are not inspected by the Federal Reserve Banks for CRA compliance performance.

All of the BHC Mergers in Our Study Were Protested on CRA and Other Issues

FRB received public comments addressing a wide variety of issues, including CRA issues, for all six mergers. The number of comments ranged from a high of over 1,600 comments for NationsBank's acquisition of BankAmerica to a low of 17 comments for NBD's acquisition of First Chicago. The number of public comments that FRB received for the other 4 mergers ranged from about 50 to about 300. For each merger, the majority of the comments were in support of the merger. Among the comments in opposition to each of the six mergers, FRB received public comments criticizing the CRA performance of either the applicant or the target institution. In addition to considering written comments, FRB conducted public meetings for four of the six mergers: (1) Fleet's acquisition of Shawmut, (2) Chemical's acquisition of Chase, (3) NationsBank's acquisition of BankAmerica, and (4) Bank One's acquisition of NBD First Chicago.[20]

Home Mortgage Lending, Small Business Lending, Branch Closures, and CRA Agreements Were the Four Principal CRA Public Concerns in the Six Mergers

The four principal CRA concerns raised in the six mergers were (1) an insufficient amount of home mortgage lending in LMI areas, (2) an insufficient amount of small business lending in LMI areas, (3) expected bank branch closures in LMI areas, and (4) the lack of specificity in CRA agreements. A summary of comments raising these concerns for each of the six BHC mergers is presented in appendix III.

Commenters Raised Concerns of Insufficient Home Mortgage and Small Business Lending in LMI Areas

For the six mergers, commenters raised concerns that either the applicant's or the target institution's performance was generally inadequate in providing mortgage lending to minority groups and in LMI areas. In many cases, commenters included statistical results from HMDA analysis to help support their claims of insufficient home mortgage lending.

FRB received comments alleging an insufficient level of small business and rural lending for two mergers, NationsBank's acquisition of BankAmerica and Bank One's acquisition of NBD First Chicago. Comments related to small business lending only affected the later two BHC mergers because banks were not required to collect small business data and submit the data to their primary bank regulator until 1996.

[20] FRB has discretion as to whether to provide an opportunity for formal hearings or allow interested persons to present their views orally before the Board of Governors. Unless otherwise ordered, any oral presentation is public and notice of the public proceeding is published in the Federal Register.

Commenters Raised Concerns That Branch Closures Would Have a Negative Impact Upon LMI Areas

In all six mergers, commenters were concerned with the number and location of banking branches that would be closed in LMI areas after the merger and the resulting impacts on LMI areas. Commenters generally referred to bank holding company branch closure practices in previous mergers to support their claim that the pending mergers would result in similar closings. For example, during the application process for Bank One's acquisition of NBD First Chicago, a community group cited Bank One's closure of branches after its acquisition of First USA and noted that the branches closed by Bank One were located in predominantly minority communities and LMI areas.

Commenters Criticized Agreements Reached in Three BHC Mergers

Community groups wanted CRA agreements that centered on banks' establishing, or pledging, specific lending and investment activities that serve the banks' delineated areas, including LMI areas. The community groups we contacted told us that CRA agreements are beneficial in meeting the convenience and needs of LMI communities, such as obtaining affordable mortgage loans or small business loans. Of the six mergers we reviewed, FRB received comments on the issue of community agreements or pledges for three BHC mergers: Chemical's acquisition of Chase, NationsBank's acquisition of BankAmerica, and Bank One's acquisition of NBD First Chicago.

Pledges issued by Chemical Bank and NationsBank were criticized for lacking specific lending goals. Chemical Bank issued a pledge for increased lending and community development funding of $18.1 billion primarily in New York, New Jersey, Connecticut, and Texas. The goals of the pledge included loans and investments to assist small businesses, affordable mortgages, and commercial and economic development. According to the summary of comments prepared by FRB, commenters criticized the pledge as inadequate because it was not enforceable, could not be monitored by community groups, was too vague to be meaningful, and did not identify the amount of lending that would be made within specific communities. Before its merger with BankAmerica, NationsBank made a 10-year pledge of $350 billion, for community development lending and investment. The comments were similar to those made for Chemical Bank's pledge. NationsBank's pledge was also criticized for lacking geographic detail and enforceability.

In 1998, before Bank One's acquisition of NBD First Chicago, a Chicago community group obtained a CRA commitment from NBD First Chicago and Bank One. The CRA commitment included, among other features, increased bank lending to small businesses in Chicago's LMI areas.

Community groups criticized Bank One for not making commitments in other areas where Bank One is located.

FRB Attempted to Address Concerns Raised in Public Comments

FRB attempted to address three of the four CRA concerns that were raised in public comments. FRB appeared to give more weight to concerns with home mortgage and small business lending than to branch closure concerns raised. DCCA conducted analyses of HMDA and CRA small business data to address concerns of insufficient home mortgage and small business lending when it became available, respectively. Generally, the statistical results from DCCA's analyses indicated that the lending activity in question was sufficient. In situations where statistical results from DCCA's HMDA analyses indicated that the lending activity in question may not have been sufficient, FRB generally emphasized CRA performance ratings and cited limitations in the use of HMDA statistics. FRB faced limitations in its legal authority to address branch closure concerns. FRB approved four of the mergers with conditions for the reporting of branch closures. According to FRB officials, CRA agreements did not play a role in FRB's assessment of the six merger cases. For each merger, DCCA prepared a memorandum to the Board of Governors containing findings and recommendations. The Board of Governors accepted DCCA's recommendations for each of the six mergers.

FRB Analyzed HMDA Data to Address Home Mortgage Concerns

To address the concern of insufficient home mortgage lending, FRB's DCCA generated a large number of statistical tabulations using HMDA individual loan file data containing the mortgage lending activity for each BHC across a large number of geographic areas. DCCA analysts reviewed HMDA data submitted by commenters, but used their own HMDA data analysis. According to DCCA analysts, many of the commenters did not include the home mortgage lending of the nonbank subsidiaries in their analysis. In its HMDA analysis, DCCA included home lending of nonbank mortgage subsidiaries in the delineated areas of the bank subsidiaries because such lending qualifies for CRA credit. Examples of FRB analysis with HMDA data in response to public comments are contained in appendix IV.

For each merger application, DCCA produced statistical tabulations for geographic areas where home mortgage lending concerns were raised. For example, NationsBank's acquisition of BankAmerica generated a large number of comments raising concerns in a number of states, counties, and MSAs. For each geographic area (i.e., a state, county, or MSA) where concerns of insufficient mortgage lending in LMI areas were raised, the statistical tabulations were uniformly reported. The statistical tabulations generated and analyzed by DCCA generally did not cover subsets of LMI areas. To respond to comments on these areas, DCCA analysts told us that they relied on information supplied by the applicant or the Federal Reserve Bank analyzing the merger.

DCCA analyzed the statistical tabulations and prepared a memorandum for each BHC application to the Board of Governors. The memorandums focused on the tabulations that the DCCA analysts thought would be most useful to the Board. Additional statistics were provided in an appendix to each memorandum. The Board voted to approve each merger in our study.

Statistics in the memorandum for each BHC merger application generally emphasized the recent trends in mortgage applications from the LMI areas and minority group applicants referenced in the comment letters. In most cases where public concerns of insufficient mortgage lending were raised, the statistical tabulations within the memorandum indicated that applications from LMI areas and the referenced minority group's applicants increased in the most recent 2- to 3-year period before the merger application.[21] In situations where statistical results from FRB's HMDA analyses appeared to indicate that the lending activity in question may not have been sufficient, FRB tended to emphasize CRA performance ratings and cited limitations in the use of HMDA statistics.

There are other measures of mortgage loan sufficiency that were not contained in the memorandums. In particular, DCCA analysts calculated the portfolio share[22] of a BHC's total mortgage originations in the relevant state, county, or MSA accounted for by mortgage originations from LMI census tracts and applicants classified with reference to a particular minority group. The portfolio shares for all institutions originating mortgages in the relevant state, county, or MSA were also generated by DCCA. This statistic can be considered a benchmark to which each BHC's portfolio share could be compared. Examples of these statistics are included in appendix IV when we refer to all institutions in the six tables. Generally, the BHCs' portfolio shares were similar to or exceeded the corresponding portfolio share for all institutions.[23]

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[21] Examples of the application statistics are included in the six tables in appendix IV.

[22] Portfolio share is defined as the total number of loan originations for a given institution in the census tracts being analyzed divided by the total number of loans originated by the institution in the metropolitan area.

[23] The one exception occurred in the case of public concerns raised in NationsBank's acquisition of BankAmerica with respect to mortgage lending to Hispanics in Texas. The percentage of NationsBank mortgage originations in Texas to Hispanic applicants declined in 1996 and 1997. In both years,

Generally, the statistical results from DCCA's analyses indicated that the lending activity in question was sufficient. Therefore, the Board generally found that the commenters' concerns were not supported by DCCA's HMDA analysis and the institution's CRA record.

Most of the comments that raised concerns of insufficient mortgage lending were directed toward delineated areas of the BHCs' bank subsidiaries subject to CRA. However, comments were received that raised such concerns for nonbank mortgage lending subsidiaries outside of the delineated areas of the BHCs' bank subsidiaries. For example, 1 comment on Chemical's acquisition of Chase stated that Chase did not make substantial loans to applicants from LMI communities in 15 MSAs, many of which were not included in the delineated areas of Chase's bank subsidiaries. We identified one commenter who made this general comment for numerous BHC mergers. He told us that FRB has a responsibility to address such comments because the BHC Act, which governs the bank and nonbank subsidiaries of a BHC, calls upon FRB to assess the impacts of the BHC merger on convenience and needs. FRB responded to this general comment by stating that nonbank subsidiaries of BHCs are not subject to CRA and their lending is only relevant in the delineated areas of the bank subsidiaries. According to a DCCA analyst, the purpose of CRA is to encourage the bank to make loans where it is collecting deposits.

FRB Analyzed Small Business Data to Address Small Business Lending Concerns

In Bank One's 1998 acquisition of NBD First Chicago, a Wisconsin community group stated that the majority of Bank One's small business lending was targeted to larger businesses, and that the bank's volume of small farm loans was low. In addition to requesting that Bank One respond to this criticism, the DCCA analyst performed her own analysis of Bank One's small business lending. In NationsBank's 1998 acquisition of BankAmerica, FRB assessed small business lending and small farm lending in seven states. In this case, the DCCA analyst performed analysis of NationsBank's small business lending. FRB did not find a basis for concern in either case.

FRB Faces Limitations in Addressing Branch Closure Concerns

The availability of bank services and offices after a merger is one of the factors to be considered by FRB in assessing the effect of the merger on convenience and needs. According to FRB officials, if preliminary branch closure information is received, DCCA reviews the information to determine if any of the proposed closures are in LMI areas and, if so, asks

NationsBank's portfolio share was less than the corresponding portfolio share for all institutions (see table 5 in app. IV).

the reason for the closures, the proximity of the receiving branch, and what actions the applicant plans to take to mitigate the impact on that community. The officials stated that they undertook such an analysis on the Chemical-Chase merger application. The law does not provide the regulators with the authority to prohibit banks from closing a branch. If the applicant has not developed final plans for branch closings, FRB's consideration of branch closures is limited to a determination of whether the applicant has an adequate branch closure policy, and any branch closings that do occur can only be assessed in future CRA examinations and BHC merger applications.[24] Branch closures could affect a bank's subsequent CRA performance rating if the closures were associated with a decline in lending, investment, or services in the bank's delineated areas. The Board of Governors placed a branch closure reporting requirement on four of the BHC mergers as a condition for approval.[25] According to FRB officials, when a branch closure reporting requirement is placed on an applicant, a message is sent to the applicant that the Board is interested in such plans and will be reviewing the closures associated with the application in the context of future applications. Because FRB cannot prohibit banks from closing branches, it is unclear what effect the conditional approvals would have on the number of branch closings in LMI areas.

Depository institution regulators do not have the legal authority to prohibit banks from closing a branch. Insured banks and thrifts must post notice to the public at least 30 days before closing a branch and provide their regulators with at least a 90-day notice. Under performance criteria of the CRA examination's Service Test, the regulators are to review the bank's (1) distribution of branches among low-, moderate-, middle-, and upper-income areas and (2) record of closing and opening branches, particularly in LMI areas. However, if a bank can demonstrate to the examiner that retail banking services can be provided to LMI areas through alternative systems, such as automated teller machines, telephone banking, or mobile banking, the bank can receive credit under the Service Test without the brick and mortar of a branch.

[24] The 1989 Statement points to an institution's adoption of "a written corporate policy concerning branch closings which contains provisions for appropriate notice, analysis of the impact of the closing on the local community, and efforts that may be made to minimize any adverse effects" as a step taken by institutions with the most effective programs for meeting their CRA responsibilities.

[25] Under Regulation Y, the Board of Governors may impose conditions on any approval, including conditions to address competitive, financial, managerial, safety and soundness, convenience and needs, compliance, or other concerns to ensure that approval is consistent with the relevant statutory factors and other provisions of the BHC Act.

In four of the six merger cases, the Board of Governors placed a reporting requirement regarding branch closures as a condition for approval. The four mergers were Fleet's acquisition of Shawmut, NationsBank's acquisition of Boatmen's, NationsBank's acquisition of BankAmerica, and Bank One's acquisition of NBD First Chicago. For each of the four mergers, the Board of Governors required the applicant to provide the Federal Reserve System with periodic reports on the number of branch closings[26] resulting from the merger and to show how it planned to minimize the impact of these closings on LMI areas. According to the DCCA Manager for Applications, applicants are not required to submit branch closure plans as part of the application. However, the Board of Governors generally orders branch closure reports from those applicants who have not submitted branch closure plans during the application process. Except for Fleet Financial Group, none of the four, who were required to submit reports, had submitted a branch closure plan.

Because FRB cannot prohibit banks from closing branches, it cannot directly affect branch closures in designated areas. Branch closures in LMI areas, however, could potentially affect future CRA performance ratings. In addition, FRB officials told us that the applicant may apply for merger again in the future. For example, the DCCA analyst, who reviewed the NationsBank-BankAmerica merger, told us that they considered NationsBank branch closures subsequent to its acquisition of Boatmen's in approving its merger with BankAmerica.

CRA Agreements Did Not Play a Role in FRB's Assessment of the Six Merger Cases

According to FRB officials, CRA agreements did not play a role in FRB's assessment of the merger application. This view is supported by statements in the Board's Orders. Using the 1989 Statement as its basis, FRB considers CRA agreements as private agreements between the banks and the community groups. DCCA officials told us that CRA does not provide the regulators with the enforcement authority to assess a bank's compliance with CRA agreements. Pledges were not considered either. DCCA staff said they did not consider the pledges of Chemical Bank and NationsBank or the commitment negotiated by NBD First Chicago when developing their recommendations to the Board of Governors.

BHC officials and community groups we interviewed had opposing views on whether FRB should consider the agreements during the application

[26] In many cases, a branch closed from a merger may be technically a consolidation. A consolidation is considered a relocation if the branch is located within the same neighborhood and the nature of the business or customers served is not affected. In less densely populated areas, where neighborhoods extend farther and a long move would not significantly affect the nature of the business or the customers served by the branch, a relocation may occur over substantially longer distances.

process. The BHC officials we interviewed supported the position that regulators should not consider CRA agreements as part of the institutions' CRA record. We were told by community development officials at two BHCs that the CRA agreements are significant in terms of external relations for the BHC with its communities. According to these officials, the primary purpose of the commitments and pledges was not to influence the regulatory process, since FRB does not consider the agreements of the applicant as a part of its analysis of the applicant's CRA record. Alternatively, community groups we interviewed want FRB to consider the banks' compliance with those agreements as part of its assessment of the applicant's CRA record.

The BHC Merger Application Process Lacks Transparency

FRB's lack of written guidance for how it addresses public comments contributed to the concerns voiced by some community groups and two BHCs regarding the lack of transparency in the merger application process. Several of the community groups who submitted comments told us that they did not understand the process by which FRB approved the six BHC mergers and how FRB considered their public comments raising concerns. The community group officials told us that FRB does not have written criteria for how it assesses merger applications, and FRB did not explain its process when community groups met with FRB officials. Some of the officials told us that while FRB conducted HMDA analysis, it did not criticize the applicant's lending performance on the basis of the analysis.

Two BHC community development officials told us that they did not understand why they needed to provide the Federal Reserve with redundant information when they had established good CRA records. One BHC official stated that if a bank has been examined for CRA, why should the Federal Reserve have to reexamine the bank. The banking official's perception of FRB's CRA review was different from that of FRB officials who do not consider their review process to be a reexamination of the bank's CRA performance. The BHC officials told us that during the application process, FRB will ask for redundant information. According to the officials, even if FRB has requested information from the applicant on a particular issue, it would request the same information again from the applicant if it subsequently received comment letters on the same issue.

Commenters who raised concerns often expressed judgments that were critical of the BHC applicant, the BHC to be acquired, and the bank and nonbank subsidiaries of the BHCs. The merging BHCs have a business interest in completing the merger in a timely manner with minimal disruption to their future consolidation efforts. Therefore, the implications of FRB's actions are of major importance to the parties involved in this process.

Bank Merger Activity Was Not Associated With Adverse Change in Mortgage Lending in Minority and LMI Areas for Three BHC Mergers

By analyzing three large BHC mergers using appropriate statistical measures and benchmarks for lending performance, we found that after none of the three mergers was there a disproportionate decline in single-family home mortgage lending to minority and LMI census tracts.[27] NBD Bancorp's acquisition of First Chicago was associated with fairly stable market share of loans in LMI and minority census tracts in the Chicago MSA. Fleet Financial Group's acquisition of Shawmut National Bank was associated with a decline in Fleet's market share in minority and LMI census tracts that mirrored Fleet's decline in overall market share in the Boston MSA. Chemical Bank's acquisition of Chase Manhattan Bank was associated with increased market and portfolio share lending in minority and LMI census tracts in 1997, as compared to the combined lending by the two competing institutions in 1995.

Our Statistical Results Were Generally Consistent Using Alternative Measures of Home Mortgage Lending Performance

Using HMDA data for each institution, we constructed and analyzed its market share of loan originations and the distribution of originations (portfolio share) across specified geographic areas. Our statistical results using two measures, one for conventional loans and one for all loans, were generally consistent with one another.[28] For each universe of home mortgage lending used, we calculated the market share of loan originations in LMI, minority census tracts, and all census tracts that made up the MSA. We also calculated the portfolio share of loan originations in LMI and minority census tracts by the combined BHC. The market share of loan originations is defined as the number of loan originations for a given institution divided by the number of loan originations by all lenders in the census tracts being analyzed. Portfolio share is defined as the number of loan originations for a given institution in the LMI and minority census tracts being analyzed divided by the number of loans originated by the institution in the MSA. The lending of both BHCs before the merger and the lending of the combined BHC after the merger were included in our market and portfolio share measures. In addition, the market share of loan originations by both BHCs in all census tracts in the MSA was used as a benchmark in assessing market share changes in LMI and minority census tracts.

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[27] We defined a minority census tract as one where members of minority groups comprise 20 percent or more of the census tract's households. We defined a LMI census tract as one where median family income for the census tract did not exceed 80 percent of the median family income for the MSA. HMDA data are the source for all lending measures.

[28] Our statistical results using a broader universe of all single-family home mortgage lending are presented in appendix V.

Our statistical results were also generally consistent using two different universes of home mortgage lending, (1) conventional, single-family home purchase loan originations and (2) all single-family mortgage loan originations. A conventional, single-family home purchase mortgage loan is defined as a single-family mortgage loan that is not insured or guaranteed by the federal government, and that is for the purpose of financing the purchase of a home. For each merger, we analyzed market and portfolio shares for the years beginning 1 year before the acquisition through the 2nd year after the acquisition was completed. For the three case studies used here, the market corresponded to the MSA where the acquired BHC's lead banking subsidiary is located. The resulting MSAs were Chicago, Boston, and New York for NBD's acquisition of First Chicago, Fleet's acquisition of Shawmut, and Chemical's acquisition of Chase, respectively.

NBD First Chicago Bank Merger Showed Fairly Stable LMI and Minority Lending

As shown in table 3, NBD's 1995 acquisition of First Chicago is associated with fairly stable market share in the Chicago MSA and a slight increase in market share in both LMI and minority census tracts. For conventional, single-family home purchase loans, the market shares for both LMI and minority census tracts increased from 1994-97. Portfolio shares rose slightly for conventional home purchase loan originations in LMI and minority communities. The overall increase in conventional, single-family home purchase loan originations for the Chicago MSA was modest in magnitude during the period of 1994-97.

Table 3: Market and Portfolio Shares for NBD/First Chicago Bank Holding Companies for Conventional, Single-Family Home Purchase Loan Originations in the Chicago MSA

	Bank holding company			
	NBD/First Chicago		NBD	
Market or portfolio share	1994	1995	1996	1997
Market share of loan origination for Chicago MSA	4.6%	6.2%	5.0%	5.5%
Market share of census tracts that were:				
LMI	5.3	5.9	5.7	6.3
Minority	5.4	6.2	5.4	6.4
Portfolio share of census tracts that were:				
LMI	11.0	10.4	10.9	12.6
Minority	26.9	24.0	24.5	28.2

Source: HMDA data.

Fleet Merger Had Reduction in Lending in LMI and Minority Areas That Mirrored Its Reduction in the Overall Market

Fleet's 1995 acquisition of Shawmut National Bank is associated with a reduction in mortgage lending to LMI and minority census tracts that mirrored Fleet's overall reduction in mortgage lending for the Boston MSA. According to Fleet Financial Group officials, over the period of 1994-97, the Boston MSA experienced a significant influx of mortgage lenders that resulted in competitive pressures and a subsequent reduction in residential mortgage lending among existing lenders in that market. As shown in table

4, market share statistics for conventional, single-family home purchase loan originations indicated large declines for both LMI and minority census tracts as well as overall in the Boston MSA. Portfolio shares only declined slightly.

Table 4: Market and Portfolio Shares for Fleet/Shawmut Bank Holding Company for Conventional, Single-Family Home Purchase Loan Originations in the Boston MSA

	Bank holding company			
	Fleet/Shawmut		Fleet	
Market or portfolio share	**1994**	**1995**	**1996**	**1997**
Market share of loan origination for Boston MSA	9.2%	11.5%	6.1%	4.3%
Market share of census tracts that were:				
LMI	26.3	27.1	14.7	10.2
Minority	32.8	32.7	17.2	11.6
Portfolio share of census tracts that were:				
LMI	34.4	32.3	33.2	32.6
Minority	27.1	25.7	25.3	24.5

Source: HMDA data.

Chase Manhattan Bank Merger Showed an Increase in LMI and Minority Lending

As shown in table 5, Chemical Bank's 1996 acquisition of Chase Manhattan Bank is associated with increased market and portfolio shares of loan originations in LMI census tracts. Market and portfolio shares in minority census tracts were fairly stable.

Table 5: Market and Portfolio Shares for Chemical/Chase Manhattan Bank Holding Companies for Conventional, Single-Family Home Purchase Loan Originations in the New York City MSA

	Bank holding company			
	Chemical/Chase		Chase	
Market or portfolio share	**1995**	**1996**	**1997**	**1998**
Market share of loan origination for New York City MSA	14.3%	13.8%	14.4%	[a]
Market share of census tracts that were:				
LMI	10.6	11.8	18.2	[a]
Minority	13.0	12.8	14.4	[a]
Portfolio share of census tracts that were:				
LMI	6.4	6.2	10.0	9.9%
Minority	39.0	37.9	40.4	41.7

[a]FRB provided us with 1998 HMDA data that allowed us to calculate portfolio, but not market share measures of lending performance.

Source: HMDA data.

Conclusions

In acting on a BHC merger application, FRB must consider the convenience and needs of the community to be served under the BHC Act and take into account the CRA records of the relevant banks. FRB's Regulation Y, promulgated under the BHC Act, requires public notice of a BHC application and a specific public comment period. FRB said it voluntarily adopted the requirement of notice, comment, and specific comment period because it found the public process helpful.

In the six BHC merger applications that we reviewed, it appeared to us that FRB attempted to balance the CRA performance ratings of the bank subsidiaries of the merging BHCs with information presented through public comments that raised concerns with the institutions' CRA records. Both the BHC applicants and the community groups raising CRA concerns lacked relevant information on how FRB analyzes an institution's CRA record. The implications of FRB's actions are of major importance to the parties involved in the BHC merger application process. The merging BHCs have a business interest in completing the merger in a timely manner with minimal disruption of their future consolidation efforts. The community groups that submit comments on large BHC mergers have an interest in ensuring that specific community credit issues are being addressed.

A more transparent process is needed regarding how FRB balances the CRA ratings of banks, particularly those with good CRA ratings, such as the banks in our study, with public comments raising CRA concerns. A more transparent process could be useful for both BHC applicants and public commenters. Enhanced transparency could improve the BHC applicants' understanding of what information is expected of them, what role public comments play in FRB's CRA review, and what information FRB focuses on in response to different CRA concerns. In addition, a more transparent process may contribute to more focused public comments from community organizations and provide commenters with knowledge of how FRB analyzes an institution's CRA record, such as its home mortgage lending performance.

Recommendation

To enhance the transparency and improve the efficiency with which CRA concerns are addressed in the BHC merger application process, we recommend that FRB develop written guidelines that summarize how public comments raising CRA concerns are used with CRA examination information in FRB's merger application decisions for large BHCs. For example, such guidelines could summarize important conclusions from previous Board of Governors application decisions. Such guidelines could also include when and how concerns raised in public comments will be considered, the types of analyses FRB is likely to conduct and rely upon in reaching its conclusions, and the situations in which HMDA statistics are limited.

Agency Comments

We received written comments on a draft of this report from FRB that are reprinted in appendix VI. FRB generally agreed with our recommendation that it develop written guidelines to enhance the transparency of the process. The letter stated that FRB will consider how best to convey useful information focusing on the CRA aspects of the application process and discussed information that could be included in an FRB guide to the process. In addition, FRB provided technical comments, which we have incorporated where appropriate.

We received written comments on a draft of this report from OCC that are reprinted in appendix VII. OCC also provided technical comments, which we have incorporated where appropriate.

We are sending copies of this report to Senator Phil Gramm and Senator Paul Sarbanes and to Representative Barney Frank, Representative John LaFalce, Representative Rick Lazio, Representative Jim Leach, Representative Marge Roukema, and Representative Bruce Vento in their capacities as Chair or Ranking Minority Member of Senate and House Committees and Subcommittees. We are also sending copies of this report to the Honorable Alan Greenspan, Chairman of the Board of Governors of the Federal Reserve System; the Honorable John Hawke, Comptroller of the Currency; and others upon request.

Please call me or Bill Shear, Assistant Director, at (202) 512-8678 if you or your staffs have any questions concerning this report. Key contributors to this report are acknowledged in appendix VIII.

Thomas J. McCool

Thomas J. McCool
Director, Financial Institutions
and Markets Issues

Contents

Abbreviations

BHC	bank holding company
CRA	Community Reinvestment Act
DCCA	Division of Consumer and Community Affairs
FDIC	Federal Deposit Insurance Corporation
FFIEC	Federal Financial Institutions Examination Council
FRB	Federal Reserve Board
HMDA	Home Mortgage Disclosure Act of 1975
LMI	low- and moderate-income
MSA	metropolitan statistical area
OCC	Office of the Comptroller of the Currency
OTS	Office of Thrift Supervision

Scope and Methodology

To provide a more detailed description of our scope and methodology, this appendix supplements our discussion contained in the letter of this report.

FRB's Legal Responsibilities

Our legal analysis included a review of the Bank Holding Company Act of 1956 (BHC Act) and the Community Reinvestment Act of 1977 (CRA). Included in this review was our analysis of statutory amendments to the BHC Act and court decisions addressing the convenience and needs factor in the BHC Act.

FRB's Process for Reviewing BHC Merger Applications

To identify the principal CRA comments submitted to the Federal Reserve Board (FRB) on each of the six mergers, we reviewed summaries of comments prepared by FRB's Legal Division and the Division of Consumer and Community Affairs (DCCA). The Legal Division wrote summaries for four merger applications—Fleet Financial Group's acquisition of Shawmut National Corporation, Chemical Banking Corporation's acquisition of Chase Manhattan Corporation, NationsBank Corporation's acquisition of BankAmerica Corporation, and Bank One Corporation's acquisition of NBD First Chicago Corporation. To verify the completeness of the Legal Division's and DCCA's summaries, we developed a data collection instrument, took a sample of comment letters from Chemical's acquisition of Chase Manhattan and NationsBank's acquisition of BankAmerica and compared our data with the written summaries. From our sampling of these comment letters, we determined that the Legal Division's and DCCA's summaries of public comments were accurate. We focused our attention on public comments addressing CRA performance measures. We did not analyze comments raising employment, safety and soundness, or competitive issues. We also did not analyze comments raising personal complaints (e.g., "I did not receive a loan") or managerial issues if they were not directly tied to CRA performance. We did not assess the validity of the public comments or verify the accuracy of data submitted with the comments. We also did not verify the accuracy of the data FRB relied upon in its response to public concerns.

To identify how FRB addressed the principal CRA comments for the six mergers in our case study, we reviewed DCCA's internal memorandums and supporting documentation submitted to the Board of Governors and the Board of Governors' Orders approving the mergers. We also interviewed officials from DCCA and the Legal Division and officials from the Federal Reserve Bank of New York. Specifically for DCCA, we interviewed the Manager of Applications in DCCA and each analyst who was responsible for assessing the CRA performance of the six mergers. We interviewed officials from Bank America Corporation, Bank One, Chase Manhattan Corporation, and Fleet Financial Group. We also interviewed a number of community groups that submitted comments or testified in public meetings on the bank holding company (BHC) merger applications included in our case studies.

To identify how FRB used Home Mortgage Disclosure Act of 1975 (HMDA) analysis to address public concerns, we specified the relevant geographic areas at the state, county, or metropolitan statistical area level of aggregation. We obtained selected reproductions of FRB analyses conducted in response to the principal public concerns raised. FRB officials told us that for some of the older mergers, they had not retained computer-generated output or documentation of the computer programs used to produce the output at the time of the merger application. FRB officials told us that it would be difficult and costly to reconstruct and reproduce the delineated areas for the bank subsidiaries of each BHC at the time of the merger application. FRB officials told us that the statistical tabulations they supplied to us would likely correspond closely to the statistical results obtained when the merger application was being processed at FRB.

We did not analyze FRB's analysis of CRA small business loan file data to address public concerns of insufficient small business lending.

Premerger and Postmerger Home Mortgage Lending

To determine the premerger and postmerger mortgage lending in low- and moderate-income (LMI) and minority communities for three mergers, we used HMDA data. FRB provided us with "value-added" HMDA data for the years 1994-98; in these data, the individual HMDA loan files were merged with census tract characteristics from the 1990 Census of Population and Housing. We undertook steps to verify, in part, the accuracy of HMDA data used in our premerger and postmerger HMDA analysis for the three BHC mergers that we reviewed. We reviewed information on the process used by the Federal Financial Institutions Examination Council's (FFIEC) member agencies for the identification and resolution of errors in the HMDA information submitted by lenders. In November 1994, FRB amended a regulation to require lenders to update the HMDA information on their loan activity on a quarterly basis and to require most lenders to submit their data to the supervisory agencies in a machine-readable form. We discussed HMDA data with FRB and BHC officials. We identified that HMDA data on home improvement loans were not consistently reported by all HMDA reporters because they have the option to report equity lines of credit as home improvement loans. We also obtained a list of the bank and nonbank subsidiaries of the three BHCs who were HMDA filers in the metropolitan statistical areas we were analyzing. We obtained the list of HMDA reporters from DCCA as well as Bank One, Chase Manhattan, and

Fleet. In cases where discrepancies were present, we conducted statistical analyses and followed up with inquiries to DCCA and BHCs to reach resolution.

In our mortgage lending analysis, we defined a census tract as LMI if median family income for the census tract was less than 80 percent of median family income for the metropolitan statistical area. Consistent with definitions used in an analysis of trends in home purchase lending recently conducted by FRB, we classified a census tract as a minority tract if 20 percent or more of the residents were members of minority groups.[1] This definition of a minority tract therefore includes census tracts that can be characterized as integrated as well as census tracts that have a greater number of minority residents.

FRB provided us with 1998 HMDA data that allowed us to calculate portfolio, but not market share, measures of lending performance for Chase Manhattan in the 2nd year after the acquisition was completed. During the time frame of our work, 1998 HMDA data required to calculate market shares were not available.

HMDA data alone cannot reflect changes in market conditions that help determine market outcomes. For example, mortgage interest rates change over time, thus affecting the number of households among different income groups that purchase a home or refinance existing mortgages. We calculated portfolio and market shares for both the universe of single-family mortgage originations and conventional home purchase mortgage originations to see if the various statistical results were consistent with one another. We also calculated the BHC's market share in all census tracts to create a benchmark that can be compared to changes in the BHC's market share in LMI and minority census tracts.

We tested the HMDA data we obtained from FRB for missing variable values. We found that the variables on which we relied, such as HMDA reporter, metropolitan statistical area, census tract number, census tract family income, and census tract minority population, were not missing for the years 1994 through 1998.

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[1] Robert B. Avery, Raphael W. Bostic, Paul S. Calem, and Glenn B. Canner, "Trends in Home Purchase Lending: Consolidation and the Community Reinvestment Act," Federal Reserve Bulletin (Feb. 1999), pp. 81-102.

Premerger Bank Subsidiary CRA Performance Ratings

Tables II.1 through II.12 list the premerger CRA performance ratings for all bank subsidiaries owned by the applicant and the target institutions of the six BHC merger cases that we reviewed.

NBD's Acquisition of First Chicago

NBD Corporation acquired First Chicago Corporation in 1995.

Table II.1: NBD Corporation Premerger CRA Ratings

NBD Corporation bank subsidiaries	Assets (in millions)	CRA ratings	Date	Agency
NBD-Michigan, N.A,. Detroit, MI	$31,000.0	Outstanding	March 31, 1993	OCC
NBD-Skokie, N.A., Skokie, IL	781.9	Satisfactory	March 31, 1995	0CC
NBD-Indianapolis, N.A., Indianapolis, IN	9,986.1	Outstanding	April 20, 1993	0CC
NBD-Elkhart, Elkhart, IN	718.9	Satisfactory	June 1, 1993	FRB-Chicago
NBD-Florida, Venice, Fl	78.3	Satisfactory	October 20, 1994	OTS
NBD-Ohio, Columbus, OH	706.4	Outstanding	May 16, 1994	OCC
NBD-Wheaton, Wheaton, IL	5,719.0	Outstanding	October 29, 1993	OCC

Source: Federal Reserve Board.

Table II.2: First Chicago Corporation Premerger CRA Ratings

First Chicago Corporation bank subsidiaries	Assets (in billions)	CRA ratings	Date	Agency
First National Bank of Chicago, Chicago, IL	$49.3	Satisfactory	November 5, 1993	OCC
American National Bank and Trust Co. Chicago, IL	6.2	Satisfactory	April 11, 1994	OCC
FCC National Bank, Wilmington, DE	5.8	Outstanding	April 11, 1994	OCC

Source: Federal Reserve Board.

Fleet's Acquisition of Shawmut

Fleet Financial Group acquired Shawmut in 1995.

Table II.3: Fleet Financial Group Premerger CRA Ratings

Fleet Financial Group bank subsidiaries	Assets (in billions)	CRA ratings	Date	Agency
Fleet Bank, Albany, NY	$14.8	Satisfactory	January 10, 1994	FRB-New York
Fleet Bank, Melville, NY	N/A	Outstanding	May 18, 1992	FRB-New York
Fleet National Bank, Providence, RI	10.1	Satisfactory	March 31, 1995	OCC
Fleet Bank of Massachusetts, N.A., Boston MA	10.8	Satisfactory	March 31, 1995	OCC
Fleet Bank., N.A., Hartford, CT	6.9	Outstanding	March 31, 1993	OCC
Fleet Bank of Maine, Portland, ME	3.1	Outstanding	August 8, 1994	FRB-Boston
Fleet Bank-NH, Nashua, NH	1.9	Outstanding	August 8, 1994	FRB-Boston

Source: Federal Reserve Board.

Table II.4: Shawmut National Corporation Premerger CRA Ratings

Shawmut National Corporation bank subsidiaries	Assets (in billions)	CRA ratings	Date	Agency
Shawmut Bank, N.A., Boston, MA	$14.4	Satisfactory	December 31, 1993	OCC
Shawmut Bank-Connecticut, N.A., Hartford, CT	18.7	Satisfactory	December 31, 1993	OCC
Shawmut Bank-NH, Manchester, NH	1.8	Satisfactory	April 11, 1994	FDIC
Shawmut Bank-New York, N.A., Schenectady, NY[a]	1.7	Not examined	N/A	N/A
Shawmut Bank, FSB, Boca Raton, FL[b]	0.2	Not examined	N/A	N/A

[a]Shawmut Bank-New York was formed in June 1995 from the acquisition of branches of Northeast Savings, F.A., Hartford, CT (Satisfactory, Sept. 28, 1992).

[b]Shawmut Bank, FSB, was formed through the acquisition of branches from the Resolution Trust Corporation in July 1994.

Source: Federal Reserve Board.

Chemical's Acquisition of Chase Manhattan

Chemical Banking Corporation acquired Chase Manhattan in 1996.

Table II.5: Chemical Banking Corporation Premerger CRA Ratings

Chemical Banking Corporation bank subsidiaries	Assets (in millions)	CRA ratings	Date	Agency
Chemical Bank, New York, NY	$153,100	Outstanding	March 13, 1995	FRB-New York
Chemical Bank, N.A., Jericho, NY	4,342	Satisfactory	September 30, 1994	OCC
Texas Commerce Bank, N.A., Houston, TX	19,649	Outstanding	September 14, 1994	OCC
Texas Commerce Bank--San Angelo, San Angelo, TX	201	Satisfactory	September 15, 1994	OCC
Chemical Bank, New Jersey, N.A., East Brunswick, NJ	188	Satisfactory	August 31, 1993	OCC
Princeton Bank & Trust Co, N.A., East Brunswick, NJ	N/A	Satisfactory	August 31, 1993	OCC
Chemical Bank, FSB, Palm Beach, FL	162	Satisfactory	March 6, 1995	OTS

Source: Federal Reserve Board.

Table II.6: Chase Manhattan Corporation Premerger CRA Ratings

Chase Manhattan Corporation bank subsidiaries	Assets (in millions)	CRA ratings	Date	Agency
The Chase Manhattan Bank, N.A., New York, NY	$97,900	Satisfactory	October 28, 1993	OCC
The Chase Manhattan Bank (USA) Wilmington, DE	9,616	Outstanding	August 30, 1994	FDIC
The Chase Manhattan Bank of Florida, N.A., Tampa, FL	409	Satisfactory	October 6, 1993	OCC
The Chase Manhattan Bank of Maryland, Baltimore, MD	646	Satisfactory	February 6, 1995	FRB-Richmond

Source: Federal Reserve Board.

NationsBank's Acquisition of Boatmen's Bancshares

NationsBank Corporation acquired Boatmen's Bancshares in 1996.

Table II.7: NationsBank Corporation Premerger CRA Ratings

Nationsbank Corporation subsidiaries	Assets (in billions)	CRA ratings	Date	Agency
NationsBank N.A. Carolinas, Charlotte, NC[a]	$70.2	Outstanding	July 21, 1995	OCC
NationsBank, N.A. (South), Atlanta, GA	49.5	Outstanding	July 21, 1995	OCC
NationsBank of Texas, N.A., Dallas, TX	41.7	Outstanding	July 21, 1995	OCC
NationsBank of Delaware, N.A., Dover, DE	6.6	Satisfactory	July 21, 1995	OCC
NationsBank of Tennessee, N.A., Nashville, TN	4.9	Outstanding	July 21, 1995	OCC
NationsBank of Kentucky, N.A., Hopkinsville, KY	0.2	Satisfactory	July 21, 1995	OCC
Sun World, N.A., El Paso, TX	0.1	Not examined	N/A	N/A

[a]Since the 1995 examinations, NationsBank merged several banks. NationsBank of Florida, N.A., Tampa, Fl, which merged into the Atlanta, GA, subsidiary, received a CRA rating of outstanding (July 1995). NationsBank, N.A., Richmond, VA, merged into the Charlotte, NC, bank and received a CRA rating of outstanding (July 1995).

Source: Federal Reserve Board.

Table II.8: Boatmen's Bancshares Premerger CRA Ratings

Boatmen's Bancshares subsidiaries	Assets (in billions)	CRA ratings	Date	Agency
Boatmens NB of Batesville, Batesville, AR	$160. 7	Outstanding	April 29, 1996	OCC
Boatmens NB of North Central AR, Bull Shoals, AR	208.5	Outstanding	April 1, 1996	OCC
Boatmens NB of South AR, Camden, AR	115.4	Outstanding	April 29, 1996	OCC
Boatmens NB of Conway, Conway, AR	198.7	Outstanding	April 29, 1996	OCC
Boatmens NB of North West AR, Fayetteville, AR	494.7	Outstanding	May 6, 1996	OCC
Superior Federal Bank, FSB, Fort Smith, AR	1,229.2	Outstanding	August 8, 1994	OTS
Boatmens NB of Hot Springs, Hot Springs, AR	304.9	Outstanding	April 15, 1996	OCC
Boatmens BK of Northeast AR, Jonesboro, AR	257.7	Satisfactory	February 13, 1995	FDIC
Boatmens NB of AR, Little Rock, AR	1,592.5	Outstanding	April 8, 1996	OCC
Boatmens NB of Newark, Newark, AR	12.5	Outstanding	May 6, 1996	OCC
Boatmens NB of Pine Bluff, Pine Bluff, AR	246.7	Outstanding	April 29, 1996	OCC
Boatmens NB of Russellville, Russellville, AR	164.0	Outstanding	April 22, 1996	OCC
Boatmens Bank of Franklin County, Benton, IL	166.1	Satisfactory	November 28, 1994	FDIC
Boatmens NB Charleston, Charleston, IL	112.8	Satisfactory	September 27, 1994	OCC
Boatmens NB of Central IL, Hillsboro, IL	109.2	Satisfactory	September 12, 1994	OCC
Boatmens Bank of S. Central IL, Mount Vernon, IL	236.4	Outstanding	January 3, 1994	FDIC
Boatmens Bank of Quincy, Quincy, IL	193.7	Outstanding	February 4, 1994	FDIC
Boatmens Bank of Iowa, NA, Des Moines, IA	688.7	Outstanding	September 6, 1994	OCC
Boatmens BK Fort Dodge, Fort Dodge, IA	104.5	Outstanding	April 24, 1995	FDIC
Boatmens Bank North Iowa, Mason City, IA	258.7	Outstanding	July 15, 1996	FDIC
Boatmens NB Northwest IA, Spencer, IA	115.9	Satisfactory	July 25, 1994	OCC
Bank IV NA, Wichita, KS	4,754.7	Outstanding	March13, 1995	OCC
Boatmens NB of Boonville, Boonville, MO	51.1	Satisfactory	October 3, 1994	OCC
Boatmens Osage Bank, Butler, MO	113.3	Outstanding	December 30, 1994	FDIC
Boatmens NB of Cape Girardeau, Cape Girardeau, MO	423.5	Satisfactory	April 4, 1994	OCC
Boatmens Bank of Southwest MO, Carthage, MO	237.4	Outstanding	September 5, 1995	FRB-Kansas City
Boatmens Bank of Mid MO, Columbia, MO	288.4	Outstanding	December 12, 1994	FDIC
Boatmens First NB of Kansas, Kansas City, MO	4,428.5	Outstanding	January 18, 1994	OCC
Boatmens Bank, Kennett, MO	125.2	Satisfactory	April 1, 1996	FDIC
Boatmens NB Lebanon, Lebanon, MO	100.1	Satisfactory	August 15, 1994	OCC
Boatmens River Valley Bank, Lexington, MO	74.1	Outstanding	January 19, 1996	FDIC
Boatmens Bank of Marshall, Marshall, MO	69.7	Outstanding	August 16, 1994	FDIC
Boatmens Bank of Pulaski County, Richland, MO	46.9	Outstanding	September 5, 1995	FDIC
Boatmens Bank, Rolla, MO	99.1	Outstanding	August 8, 1994	FDIC
Boatmens NB of St. Louis, St. Louis	11,482.4	Outstanding	February 26, 1996	OCC
Boatmens Bank of Southern MO, Springfield, MO	1,192.2	Outstanding	October 18, 1995	FDIC
Boatmens Bank of Troy, Troy, MO	62.6	Satisfactory	April 3, 1995	FDIC

Boatmen's Bancshares subsidiaries	Assets (in billions)	CRA ratings	Date	Agency
Boatmens Bank, Vandalia, MO	41.1	Satisfactory	January 10, 1995	FRB-St. Louis
Boatmens First NB, West Plains, MO	152.5	Satisfactory	September 12, 1994	OCC
Boatmens Credit Card Bank, Albuquerque, NM	580.9	Satisfactory	August 19, 1994	FDIC
Sunwest Bank of Albuquerque, Albuquerque, NM	2,217.5	Outstanding	April 4, 1994	OCC
Sunwest Bank of Clovis, NA, Clovis, NM	169.5	Outstanding	March 31, 1994	OCC
Sunwest Bank of Rio Arriba, NA, Espanola, NM	90.7	Satisfactory	March 31, 1994	OCC
Sunwest Bank of Farmington, Farmington, NM	79.1	Satisfactory	March 8, 1996	FDIC
Sunwest Bank of Gallup, Gallup, NM	176.5	Satisfactory	January 12, 1996	FDIC
Sunwest Bank of Hobbs, Hobbs, NM	78.1	Satisfactory	April 11, 1994	OCC
Sunwest Bank of Las Cruces, NA, Las Cruces, NM	99.6	Satisfactory	April 18, 1994	OCC
Sunwest Bank of Raton, NA, Raton, NM	84.4	Outstanding	March 31, 1994	OCC
Sunwest Bank of Roswell, NA, Roswell, NM	165.3	Satisfactory	March 31, 1994	OCC
Sunwest Bank of Santa Fe, Santa Fe, NM	283.2	Outstanding	November 25, 1994	FDIC
Sunwest Bank, Silver City, NM	107.4	Outstanding	April 24, 1995	FRB-Dallas
Boatmens NB of Oklahoma, Tulsa, OK	3,961.4	Satisfactory	September 12, 1995	OCC
Boatmens Bank of Tennessee, Memphis, TN	942.7	Outstanding	December 12, 1994	FDIC
Boatmens First NB, Amarillo, TX	1,586.1	Satisfactory	May 16, 1994	OCC
Boatmens NB Austin, Austin, TX	120.9	Satisfactory	October 10, 1994	OCC
Sunwest Bank, El Paso, TX	548.8	Outstanding	July 8, 1996	FDIC

Source: Federal Reserve Board.

NationsBank's Acquisition of BankAmerica

NationsBank Corporation acquired BankAmerica in 1998.

Table II.9: NationsBank Corporation Premerger CRA Ratings

NationsBank Corporation bank subsidiaries	Assets (in billions)	CRA ratings	Date	Agency
NationsBank, N.A. (Carolinas), Charlotte, NC[a]	$216.4	Outstanding	July 21, 1995	OCC
NationsBank of Tennessee, N.A., Nashville, TN	6.0	Outstanding	July 21, 1995	OCC
NationsBank of Kentucky, N.A., Hopkinsville, KY	0.2	Satisfactory	July 21, 1995	OCC
NationsBank of Delaware, N.A., Dover, DE	6.7	Satisfactory	July 21, 1995	OCC
NationsBank, N.A. (NationsBank-Glynn Co.), Brunswick, GA	0.3	Outstanding	April 22, 1996	OTS
Sunwest Bank of El Paso, TX	0.6	Outstanding	July 8, 1996	FDIC
Boatmen's National Bank of Austin, Austin, TX	0.1	Satisfactory	December 31, 1994	OCC
Barnett Bank, N.A. (Barnett), Jacksonville, FL	46.3	Outstanding	December 31, 1996	OCC
Community Bank of the Islands, Sanibel, FL	0.1	Outstanding	January 31, 1996	FRB-Atlanta
Superior Federal Bank, FSB, Ft. Smith, AR	1.3	Outstanding	August 8, 1994	OTS

[a]At the time of the BHC merger application review, the NationsBank, N.A., operated in 14 states and DC; it included all of NationsBank's East Coast banks (except banks in Tennessee, Kentucky, and the Barnett Banks) and all former Boatmen's banks. NationsBank--TX merged into NationsBank, N.A., on 5/6/98 as the result of a court decision allowing the merger of Texas banks into banks based in other states; Boatmen's-TX and Sunwest-TX were also merged into the NC bank.

Source: Federal Reserve Board.

Table II.10: BankAmerica Corporation Premerger CRA Ratings

BankAmerica Corporation bank subsidiaries	Assets (in billions)	CRA ratings	Date	Agency
Bank of America National Trust and SA, San Francisco, CA	$240.4	Outstanding	September 30, 1997	OCC
Bank of America, N.A., Phoenix, AZ	6.7	Outstanding	October 31, 1996	OCC
Bank of America Texas, N.A., Irving, TX	5.3	Outstanding	October 31, 1996	OCC
Bank of America, FSB, Portland, OR[a]	15.8	Outstanding	June 9, 1997	OTS
Bank of America Community Development Bank, Walnut Creek, CA[b]	0.4	Outstanding	August 27, 1997	FDIC

[a]All deposit-taking branches were sold (Hawaii, Dec. 5, 1997, and in-store branches in the Chicago MSA, Jan. 31,1998). Other divisions included BankAmerica's mortgage company and a community development division, which generally complemented the activities of the Bank of America Community Development Bank and operated in states other than California.

[b]The bank was considered a leader for community development efforts for all BankAmerica banking units. Its activities focused on Small Business Administration lending, affordable housing lending, and community development services; it operated mainly in California.

Source: Federal Reserve Board.

Bank One's Acquisition of NBD First Chicago

Bank One Corporation acquired NBD First Chicago in 1998.

Table II.11: Bank One Corporation Premerger CRA Ratings

Bank One Corporation bank subsidiaries	Assets (in millions)	CRA ratings	Date	Agency
Bank One NA, Columbus, OH[a]	$24,607	Outstanding	January 21, 1995	OCC
Bank One Texas, NA, Dallas, TX	24,509	Satisfactory	October 31, 1997	OCC
Bank One Arizona, NA, Phoenix, AZ.	14,678	Satisfactory	October 28, 1996	OCC
Bank One Wisconsin, Milwaukee, WI[a]	9,007	Satisfactory	November 25, 1995	OCC[c]
First USA Bank, Wilmington, DE	9,002	Satisfactory	August 19, 1996	FDIC[d]
Bank One Indiana, NA, Indianapolis, IN[a]	8,323	Outstanding	February 21, 1995	OCC
Bank One LA, NA, Baton Rouge, LA	6,003	Satisfactory	September 19, 1996	OCC
Bank One Kentucky, NA, Louisville, KY	5,456	Outstanding	November 7, 1994[b]	OCC
Bank One Oklahoma, NA, Oklahoma City, OK	3,890	Satisfactory	April 22, 1996	OCC
Bank One Illinois, NA, Springfield, IL	3,535	Outstanding	December 21, 1994	OCC
Bank One Colorado, NA, Denver, CO	2,956	Outstanding	January 13, 1997	OCC
Bank One West VA, NA, Huntington, WV	2,397	Satisfactory	June 30, 1997	OCC
Bank One Utah, NA, Salt Lake City, UT	1,025	Satisfactory	October 31, 1997	OCC
Bank One Trust Co., NA, Columbus, OH[e]	581	Not examined	N/A	OCC
Bank One Wheeling, Steubenville, NA, Wheeling, WV	453	Satisfactory	April 15, 1996	OCC

[a]FRB staff noted that subsequent to the 1995 CRA examination of Bank One's Columbus, OH, bank subsidiary, it merged several other Bank One Ohio bank subsidiaries into the Columbus bank. Similarly, Bank One merged its other Indiana bank subsidiaries into the Indianapolis, IN, bank after that bank's 1995 CRA examination. In Wisconsin, Bank One merged several of its subsidiaries into the Milwaukee bank subsequent to that bank subsidiary's 1995 CRA examination. Also, in Illinois, Bank One merged several subsidiaries into the Springfield bank, which was examined in late 1994. Therefore, these 1994/1995 ratings do not represent examinations of Bank One's activities throughout these three states. FRB staff noted that all Bank One's banks that were merged out of existence had at least satisfactory CRA ratings.

[b]At the time of the BHC merger application review, the primary bank regulator was conducting a CRA examination at the bank.

[c]Changed to an OCC charter in April 1998.

[d]Changed to a FDIC charter in October 1996.

[e]The subsidiary was not subject to CRA.

Source: Federal Reserve Board.

Table II.12: First Chicago NBD Corporation Premerger CRA Ratings

First Chicago NBD Corporation bank subsidiaries	Assets (in millions)	CRA ratings	Date	Agency
First NB of Chicago, Chicago, IL	$58,138	Satisfactory	November 3, 1997	OCC
NBD Bank, Detroit, MI	22,138	Outstanding	May 28, 1996[a]	FRB-Chicago
FCC National Bank, Wilmington, DE	9,404	Outstanding	May 17, 1995[a]	OCC
NBD Bank, NA, Indianapolis, IN	9,268	Outstanding	March 11, 1996	OCC
American NB & Trust, Chicago, IL	9,260	Satisfactory	January 9, 1995[a]	OCC
NBD Bank, Elkhart, IN	713	Outstanding	July 26, 1998	FDIC
NBD Bank, Venice FL	129	Satisfactory	August 12, 1996	FDIC

[a]At the time of the BHC merger application review, the primary bank regulator was conducting a CRA examination at the bank.

Source: Federal Reserve Board.

Discussion of Principal CRA Concerns Raised by Commenters

FRB received both supportive and opposing comments for all six mergers. This appendix provides a discussion of the CRA concerns raised in each merger. Our discussion includes the financial institutions, CRA comments, and geographic areas raised in the concerns.

NBD's Acquisition of First Chicago

Commenters raised concerns that NBD had inadequate lending in LMI areas in the Detroit MSA, where the lead bank subsidiary was located. Similar concerns were also raised regarding the inadequacy of First Chicago's lending in the Lake County area of Chicago.

Commenters also alleged that NBD redlined many LMI Detroit communities, as evidenced by the lead bank subsidiary's lack of branch presence and minimal marketing of credit products in these areas.

Fleet's Acquisition of Shawmut

Commenters expressed concerns about inadequate lending by Fleet or its subsidiaries in minority census tracts in the 13 MSAs in New York State. Commenters alleged that the level of mortgage applications that Fleet received in each MSA was not consistent with the demographics of each MSA, and that the application denial rates evidenced disparate lending to minorities and those in LMI census tracts.

Concerns were also raised regarding potential branch closures that would result in decreased banking services to LMI neighborhoods.

Chemical's Acquisition of Chase Manhattan

Commenters raised CRA concerns for both Chemical and Chase Manhattan. Concerns were expressed about Chemical's and Chase's lending in all states where the banks had a banking presence. Commenters also expressed concern that Chase had inadequate mortgage lending in LMI communities in a broad cross-section of cities, including Chicago, Los Angeles, Atlanta, Detroit, and Dallas. Commenters expressed concern that Chemical lacked home mortgage lending in LMI census tracts in New York, New Jersey, Delaware, Florida, and Texas.

Concerns were also raised regarding branch closures. In particular, a number of commenters expressed concern with the impact of Chemical's announced branch closures in LMI areas of New York City.

NationsBank's Acquisition of Boatmen's Bancshares

Commenters expressed concern that NationsBank had inadequate mortgage and business lending to minorities and possible branch closings in Travis County, TX.

NationsBank's Acquisition of BankAmerica

Similar to the previous NationsBank merger, numerous commenters criticized the lending records of one or both banks in a number of geographical areas. Commenters were concerned that one or both of the banks did not adequately lend to LMI individuals and areas. Concerns were also raised regarding NationsBank's small business and rural lending, and branch closings. One commenter asserted that the acquisition of BankAmerica would result in branch closings and reductions in banking services to LMI communities.

Bank One's Acquisition of NBD First Chicago

Commenters criticized both BHCs' home mortgage lending and small business lending in serving the needs of minority borrowers and LMI and rural areas. Some commenters' concerns were related to Bank One's April 1998 decision to modify its mortgage lending strategy, which they interpreted as the bank's plan to exit the mortgage lending business. Commenters feared that such a strategy would have the impact of reduced access to mortgage credit for certain individuals.

Commenters also expressed concern about branch closings, including the concern that branch closings would reduce the availability of banking services to individuals in LMI and minority neighborhoods. In addition, commenters expressed concern about Bank One's refusal to enter into community reinvestment agreements similar to the agreements entered into by First Chicago in Detroit and Chicago.

Examples of FRB Analysis of HMDA Data in Response to Public Concerns

For each merger application, DCCA produced statistical tabulations on each geographic area where home mortgage lending concerns were raised. Tables IV.1 through IV.6 present examples of FRB analysis conducted with HMDA data that were performed in response to public concerns raised in each of the six bank holding company mergers included in our case study. The examples, which represent a small subset of DCCA's tabulations, are presented in six tables representing (1) NBD's acquisition of First Chicago in 1995, (2) Fleet's acquisition of Shawmut in 1995, (3) Chemical's acquisition of Chase in 1996, (4) NationsBank's acquisition of Boatmen's in 1997, (5) NationsBank's acquisition of BankAmerica in 1998, and (6) Bank One's acquisition of NBD First Chicago in 1998.

Each table includes statistics generated by FRB analysts for census tracts classified as LMI in response to public comments stating that such lending was insufficient. Each table also includes statistics generated for minority applicants in the MSA or region. We reported FRB's analysis for the minority group accounting for the highest percentage of mortgage originations in the geographic area. When analyses were performed for a number of geographic areas covering one or more parties to the merger, we reported FRB's analysis for the area and merger partner we considered to be most helpful for illustrating FRB's process. For example, in NBD's acquisition of First Chicago, we reported FRB analysis for NBD in the Detroit MSA. FRB also conducted an analysis for First Chicago in the Chicago MSA and in Lake County, IL, in response to public comments on First Chicago's lending in those geographic areas.

Table IV.1: HMDA Statistics Generated in Response to Public Concerns Raised in NBD's Acquisition of First Chicago

NBD-Detroit MSA	1993	1994
Percentage of NBD mortgage applications from LMI tracts	8.3%	13.7%
Percentage of NBD mortgage applications from African-American applicants	6.6	11.7
Percentage of NBD mortgage originations from LMI tracts	7.6	16.3
Percentage of all institution mortgage originations from LMI tracts	6.9	12.4
Percentage of NBD mortgage originations to African-American applicants	5.6	11.2
Percentage of all institution mortgage originations to African-American applicants	5.0	10.3

Source: Federal Reserve Board.

Table IV.2: HMDA Statistics Generated in Response to Public Concerns Raised in Fleet's Acquisition of Shawmut

Fleet-Albany	1993	1994
Percentage of Fleet mortgage applications from LMI tracts	16.6%	19.1%
Percentage of Fleet mortgage applications from African-American applicants	1.4	3.2
Percentage of Fleet mortgage originations from LMI tracts	15.2	17.8
Percentage of all institution mortgage originations from LMI tracts	12.4	13.4
Percentage of Fleet mortgage originations to African-American applicants	1.4	3.1
Percentage of all institution mortgage originations to African-American applicants	1.7	1.9

Source: Federal Reserve Board.

Table IV.3: HMDA Statistics Generated in Response to Public Concerns Raised in Chemical's Acquisition of Chase

Chase-New York MSA	1993	1994
Percentage of Chase mortgage applications from LMI Tracts	8.5%	9.6%
Percentage of Chase mortgage applications from African-American applicants	12.3	17.7
Percentage of Chase mortgage originations from LMI tracts	7.7	9.3
Percentage of all institution mortgage originations from LMI Tracts	7.8	9.8
Percentage of Chase mortgage originations to African-American applicants	11.3	15.7
Percentage of all institution mortgage originations to African-American applicants	9.1	13.7

Source: Federal Reserve Board.

Table IV.4: HMDA Statistics Generated in Response to Public Concerns Raised in NationsBank Acquisition of Boatmen's

NationsBank-Travis County, TX	1994	1995
Percentage of NationsBank mortgage Applications from LMI tracts	24.3%	27.0%
Percentage of NationsBank mortgage applications from Hispanic applicants	13.2	16.2
Percentage of NationsBank mortgage Originations from LMI tracts	22.0	22.8
Percentage of all institution mortgage Originations from LMI tracts	15.5	16.8
Percentage of NationsBank mortgage originations to Hispanic applicants	10.2	13.3
Percentage of all institution mortgage originations to Hispanic applicants	8.7	11.1

Source: Federal Reserve Board.

Table IV.5: HMDA Statistics Generated in Response to Public Concerns Raised in NationsBank's Acquisition of Bank America

NationsBank-TX	1995	1996	1997
Percentage of NationsBank mortgage applications from LMI tracts	26.1%	23.9%	22.0%
Percentage of NationsBank mortgage applications from Hispanic applicants	18.6	18.3	18.4
Percentage of NationsBank mortgage originations from LMI tracts	21.1	18.4	15.7
Percentage of all institution mortgage originations from LMI tracts	14.7	14.1	14.2
Percentage of NationsBank mortgage originations to Hispanic applicants	15.7	14.3	13.9
Percentage of all institution mortgage originations to Hispanic applicants	15.5	15.2	15.1

Source: Federal Reserve Board.

Table IV.6: HMDA Statistics Generated in Response to Public Concerns Raised in Bank One's Acquisition of NBD First Chicago

Bank One-Indianapolis MSA	1995	1996	1997
Percentage of Bank One mortgage applications from LMI tracts	28.3%	24.4%	26.8%
Percentage of Bank One mortgage applications from African-American applicants	14.4	13.8	15.2
Percentage of Bank One mortgage originations from LMI tracts	23.0	19.1	21.6
Percentage of all institution mortgage originations from LMI tracts	16.6	16.1	16.9
Percentage of Bank One mortgage originations to African-American applicants	10.6	10.2	11.2
Percentage of all institution mortgage originations to African-American applicants	7.7	7.7	7.7

Source: Federal Reserve Board.

BHC Mergers and Lending in Minority and Low- and Moderate-Income Areas

This appendix contains our statistical results using a broader universe of all single-family home mortgage lending. We define a single-family mortgage loan as a home purchase, refinancing, or home improvement loan used to finance an one- to four-unit residential structure. Statistical results using our narrower universe of conventional, single-family home purchase loan originations are contained in the body of the letter.

Our broader universe of home mortgage lending includes home improvement loans that are not consistently reported by all HMDA reporters. HMDA reporters have the option to report equity lines of credit as home improvement loans. We also include refinancing loans that are more sensitive to interest rate changes as compared to home purchase loans. Our broader universe also includes federally insured loans.

NBD First Chicago Bank Merger Shows Fairly Stable LMI and Minority Lending

NBD First Chicago Bank's market and portfolio share measures for all single-family loan originations are presented in table V.1. The market share percentages for NBD First Chicago were fairly stable from 1994 to 1997 for both LMI and minority areas.

Table V.1: Market and Portfolio Shares for First Chicago/NBD Bank Holding Companies for All Single-Family Mortgage Loan Originations in the Chicago MSA

	NBD/First Chicago		NBD	
Market or portfolio share	**1994**	**1995**	**1996**	**1997**
Market share of loan origination for Chicago MSA	4.4%	5.5%	4.9%	5.0%
Market share of census tracts that were:				
LMI	3.9	4.1	3.7	4.0
Minority	4.0	4.5	4.0	4.3
Portfolio share of census tracts that were:				
LMI	12.5	11.7	11.5	13.2
Minority	27.7	25.2	25.0	27.9

Source: HMDA data.

Fleet Merger Had Reduction in Lending in LMI and Minority Areas That Mirrored Its Reduction in the Overall Market

As stated in the letter of this report, Fleet's 1995 acquisition of Shawmut National Bank is associated with a reduction in conventional, single-family home purchase mortgage lending to LMI and minority census tracts that mirrored Fleet's overall reduction in mortgage lending for the Boston metropolitan statistical area. According to Fleet Financial Group officials, over the period of 1994 to 1997, the Boston MSA experienced a significant influx of mortgage lenders that resulted in competitive pressures and a subsequent reduction in residential mortgage lending among existing lenders in that market. A generally consistent pattern is found in table V.2 for all single-family loan originations by Fleet in the Boston metropolitan statistical area. Market share declines in LMI and minority census tracts generally mirrored declines for all census tracts. The market share declines in LMI and minority census tracts were accompanied by declines in respective portfolio share measures.

Table V.2: Market and Portfolio Shares for Fleet/Shawmut Bank Holding Company for All Single-Family Mortgage Loan Originations in the Boston MSA

	Fleet/Shawmut		Fleet	
Market or portfolio share	**1994**	**1995**	**1996**	**1997**
Market share of loan origination for Boston MSA	8.1%	10.2%	6.9%	5.7%
Market share of census tracts that were:				
LMI	17.3	19.1	11.6	9.1
Minority	21.4	22.4	12.4	9.4
Portfolio share of census tracts that were:				
LMI	25.3	25.0	22.5	21.6
Minority	18.8	18.2	14.8	13.5

Source: HMDA data.

Chase Manhattan Bank Merger Shows an Increase in LMI and Minority Lending

Chase Manhattan Bank's market and portfolio share statistics for all single-family loan originations in the New York City metropolitan statistical area are presented in table V.3. The statistics are comparable to those for conventional home purchase loans discussed in the letter of this report. The market and portfolio shares of lending increased in LMI census tracts. Market share in LMI census tracts increased between 1995 and 1997 from 6.8 percent to 9.2 percent. On balance, the statistics indicated that the consolidated BHC did not reduce access to credit in LMI and minority census tracts after FRB approved its BHC application in 1996.

Table V.3: Market and Portfolio Shares for Chemical/Chase Manhattan Bank Holding Companies for All Single-Family Mortgage Loan Originations in the New York City MSA

	Chemical/Chase			Chase
Market or portfolio share	**1995**	**1996**	**1997**	**1998**
Market share of loan origination for New York City MSA	10.8%	9.7%	10.1%	[a]
Market share of census tracts that were:				
LMI	6.8	6.2	9.2	[a]
Minority	9.1	8.0	8.9	[a]
Portfolio share of census tracts that were:				
LMI	6.8	6.6	10.4	9.4%
Minority	39.6	38.2	41.1	40.1

[a]FRB provided us with 1998 HMDA data that allowed us to calculate portfolio, but not market share measures of lending performance.
Source: HMDA data.

Comments From the Federal Reserve Board

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

ALAN GREENSPAN
CHAIRMAN

September 14, 1999

Mr. Thomas J. McCool, Director
Financial Institutions and Markets Issues
General Government Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. McCool:

We appreciate the opportunity to comment on the August 12, 1999, draft of the GAO's report entitled, Federal Reserve Approval of Large Bank Mergers: Guidelines are Needed for the Community Reinvestment Act Review. The draft recommends that the Board develop "guidelines" to enhance the transparency of the process for the public, including the applicant. We generally agree with the recommendation, and will consider how best to convey useful information focusing on the CRA aspects of the application process.

We believe that a written guide to the process--addressing, in particular, the role of public comments in Board decisions on bank holding company applications--would serve a constructive purpose. Such a guide could describe the types of analyses the Board considers, explain the limitations of the HMDA data (data on which many public commenters rely in presenting fair lending concerns), describe the comprehensive analyses the Board conducts on its own initiative and in response to public comments, and explain also the Board's strong reliance on examination reports for assessments of a bank's CRA performance and fair lending compliance. Such a guide could also include references and direct interested parties to significant Board Orders in previous cases.

The report reflects considerable thought, time, and effort on the part of your staff. We appreciate your sharing it with us and thank you for the opportunity to comment. We have separately provided your staff with a number of technical comments.

Sincerely,

Comments From the Office of the Comptroller of the Currency

Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

September 7, 1999

Mr. William B. Shear
Assistant Director, Financial Institutions and Markets Issues
General Government Division
United States General Accounting Office
Washington, DC 20548

Dear Mr. Shear:

We have received and reviewed your draft report entitled Federal Reserve Board Approval of Large Bank Mergers: Guidelines Are Needed For the Community Reinvestment Review. The report was prepared at congressional request and concludes that guidance has not been developed for implementing the Bank Holding Company Act and CRA in the bank holding company merger application process and that the Federal Reserve's CRA performance review process lacks transparency. However, GAO found that bank merger activity was not associated with adverse change in mortgage lending in minority and low and moderate income areas. The report makes recommendations to the Federal Reserve.

We appreciate your providing the OCC with an opportunity to comment on the report. The OCC is committed to working with all financial institution regulatory agencies to provide efficient and effective oversight of compliance with CRA. Editorial suggestions and technical comments have been provided to your evaluators separately. We do not have any additional comments at this time.

Sincerely,

Edward J. Hanley
Senior Deputy Comptroller for Administration
and Chief Financial Officer

GAO Contacts and Staff Acknowledgments

GAO Contacts

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Acknowledgments

In addition to those named above, Joan M. Conway, Rachel M. DeMarcus, Nancy Eibeck, Christopher C. Henderson, Sindy Udell, and Tonita G. Woodson made key contributions to this report.

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