FEDERAL RESERVE press release

For immediate release

December 4, 1991

The Federal Reserve Board today released a Statement concerning its action of November 29, 1991, approving the applications of NCNB Corporation, Charlotte, North Carolina, to acquire C&S/Sovran Corporation, Atlanta, Georgia, and Norfolk, Virginia, and thereby to acquire the bank and nonbank subsidiaries of C&S/Sovran.

Attached is the Board's Statement relating to this action.

Attachment

FEDERAL RESERVE SYSTEM

STATEMENT BY THE BOARD OF GOVERNORS OF
THE FEDERAL RESERVE SYSTEM
REGARDING THE APPLICATION BY
NCNB CORPORATION TO ACQUIRE C&S/SOVRAN CORPORATION

By Order dated November 29, 1991, the Board approved the applications of NCNB Corporation, Charlotte, North Carolina ("NCNB"), pursuant to sections 3 and 4(c)(8) of the Bank Holding Company Act (12 U.S.C. §§ 1842, 1843(c)(8)) ("BHC Act") to acquire C&S/Sovran Corporation, Atlanta, Georgia, and Norfolk, Virginia ("C&S/Sovran"), and thereby to acquire the banking and nonbanking subsidiaries of C&S/Sovran; the application pursuant to section 4(c)(14) of the BHC Act (12 U.S.C. § 1843(c)(14)), to acquire indirectly Commerce Trading Corporation, an export trading company; and the proposal to acquire indirectly the shares of Citizens and Southern International Bank and Citizens and Southern International Bank of Atlanta, which are corporations chartered pursuant to section 25(a) of the Federal Reserve Act (12 U.S.C. § 611 et seq.) ("Edge Act").1/ Upon consummation of these acquisitions, NCNB proposes to change its

---

1/ NCNB's shell subsidiary holding company, C&S/Sovran Merger Corporation, Wilmington, Delaware ("Merger Corporation"), will be merged with and into C&S/Sovran, and C&S/Sovran will be the surviving entity. C&S/Sovran will be a wholly-owned second tier holding company subsidiary of NCNB. Merger Corporation has been formed solely for the purpose of facilitating this acquisition.

In connection with this transaction, NCNB and C&S/Sovran have granted each other an option to purchase up to 19.9 percent of the outstanding common stock of each other's organization, and both organizations have applied to exercise the options if any of several preconditions occur. These options will become moot upon consummation of the NCNB application to acquire C&S/Sovran.

name to "NationsBank Corporation" ("NationsBank"). The Board hereby issues this Statement regarding its approval Order.

Notice of the applications, affording interested persons an opportunity to submit comments, has been published (56 Federal Register 46,182 (1991)). Because of the size and geographic scope of the resulting organization and the extensive public interest in this proposal, the Board held public meetings regarding these applications at four sites to permit interested persons an opportunity to present written information and oral testimony directly to members of the System's staff. These meetings were held during the week of October 7, 1991, in Richmond, Virginia; Charlotte, North Carolina; Atlanta, Georgia; and Dallas, Texas. Over 100 people presented testimony at these meetings. The Board also extended the public comment period in this case, providing interested persons over 75 days to submit written comments.

The Board considered the applications and all comments received in light of the factors set forth in sections 3(c) and 4 of the BHC Act and section 25(a) of the Federal Reserve Act.

NCNB, with approximately $69.1 billion in consolidated assets, controls a total of eight banking subsidiaries located in Delaware, Florida, Georgia, Maryland, South Carolina, North Carolina, Texas and Virginia, with approximately $48.8 billion in total deposits.[2/] C&S/Sovran, with $49.1 billion in consolidated assets, controls a total of eight banking

---

2/ Asset and deposit data are as of June 30, 1991.

subsidiaries and three trust companies located in Florida, Georgia, Kentucky, Maryland, South Carolina, Tennessee, Virginia, and the District of Columbia, with approximately $38.8 billion in total deposits. Upon consummation of this proposal, NationsBank would be the fourth largest commercial banking organization in the United States based on total deposits ($87.6 billion), and the third largest commercial banking organization in the United States based on consolidated assets ($118.2 billion).

Douglas Amendment

Section 3(d) of the BHC Act (12 U.S.C. § 1842(d)), the Douglas Amendment, prohibits the Board from approving an application by a bank holding company to acquire control of any bank located outside of the holding company's home state, unless such acquisition is "specifically authorized by the statute laws of the State in which [the] bank is located, by language to that effect and not merely by implication." For purposes of the Douglas Amendment, the home state of NCNB is North Carolina.[3/] The Board has previously determined that the interstate banking statutes of Florida, Georgia, Maryland, South Carolina and Virginia permit NCNB to acquire banking organizations in those

---

[3/] A bank holding company's home state is that state in which the operations of the bank holding company's banking subsidiaries were principally conducted on July 1, 1966, or the date on which the company became a bank holding company, whichever is later. The operations of a bank holding company are considered principally conducted in that state in which the total deposits of all such banking subsidiaries are largest.

states.[4/] Tennessee,[5/] Kentucky,[6/] and the District of Columbia[7/] have each enacted a reciprocal interstate banking statute that permits an out-of-state bank holding company to acquire a bank in these jurisdictions if certain conditions are satisfied. In considering this proposal, the Board has analyzed the interstate banking statutes of all of the states involved and of the District of Columbia and has concluded that NCNB is authorized under these statutes to acquire the banking subsidiaries of C&S/Sovran located in these states and the District of Columbia.[8/] The appropriate bank supervisors in

---

4/ See NCNB Corporation, 70 Federal Reserve Bulletin 225 (1984)(Florida); NCNB Corporation, 72 Federal Reserve Bulletin 61 (1986)(Georgia); NCNB Corporation, 73 Federal Reserve Bulletin 666 (1987)(Maryland); NCNB Corporation, 72 Federal Reserve Bulletin 57 (1986)(South Carolina); NCNB Corporation, 72 Federal Reserve Bulletin 849 (1986)(Virginia).

5/ See Tenn. Code Ann. § 45-12-102, 103. The Tennessee statute conditions entry on the requirement that the out-of-state bank holding company not hold more than 16-1/2 percent of the total deposits held by all federally insured financial institutions located in Tennessee. Upon consummation of this proposal, NationsBank will hold approximately 5 percent of the federally-insured deposits in Tennessee.

6/ See Ky. Rev. Stat. Ann. § 287.900(6)(b),(c). Kentucky prohibits any bank holding company from engaging in a transaction that would result in the holding company controlling more than 15 percent of all bank deposits in Kentucky. Ky. Rev. Stat. Ann. § 287.900(3). Upon consummation of this transaction, NCNB will control less than 1 percent of the bank deposits in Kentucky.

7/ See D.C. Code Ann. §§ 26-801, 802(a)(1).

8/ Each of these state statutes permits a bank holding company located in North Carolina to acquire a bank in each respective state. However, the affected states (other than Kentucky) and the District of Columbia have statutory provisions requiring that (1) more than 80 percent of the total deposits held by the banking subsidiaries of the out-of-state bank holding

(continued...)

each of these states and the District of Columbia agree with this conclusion. In light of the foregoing, the Board has determined

---

8/ (...continued)
company be held by banks located in a particular region; and (2) the "principal place of business" of the out-of-state bank holding company, as defined under state law, authorize the acquisition of a bank in the affected state on a reciprocal basis. The relevant state statutes generally provide that a bank holding company's principal place of business is considered to be that state in which the total deposits of all the bank holding company's subsidiary banks are largest on the date of the proposed acquisition. The deposits of NCNB's subsidiary bank in Texas exceed the deposits of NCNB's other subsidiary banks and exceed 20 percent of the total deposits in NCNB's subsidiary banks. Because deposits of NCNB's subsidiary bank in Texas are larger than deposits of NCNB's deposits in any other state, Texas is the principal place of business for purposes of these statutes.

Under these state and District of Columbia statutes, NCNB would be precluded from acquiring banks in the affected states (other than Kentucky), and the District of Columbia. However, NCNB acquired NCNB Texas National Bank pursuant to section 13(f)(2) of the Federal Deposit Insurance Act (12 U.S.C. § 1823(f)(2)), which authorizes assisted emergency interstate acquisitions. Section 13(f) specifically provides that any bank holding company that acquires a bank through an assisted emergency interstate acquisition under that provision may not be prevented by any state law from acquiring any other bank or bank holding company by reason of the emergency acquisition. 12 U.S.C. § 1823(f)(4)(E). This provision was enacted in order to prevent emergency interstate acquisitions from disqualifying the acquiring bank holding company from future acquisitions under various regional interstate banking statutes that require that bank holding companies maintain at least a given ratio of deposits within the region. _See_ H.R. Rep. No. 261, 100th Cong., 1st Sess. 172 (1987). Thus, NCNB's deposits in Texas do not preclude the proposed acquisition even though Texas may be deemed under state law to be NCNB's principal place of business and over 20 percent of deposits in NCNB's banks are in Texas. When NCNB's Texas deposits are excluded, the applicable reciprocity requirements of the interstate banking statutes in the affected states and the District and Columbia are satisfied.

There is no need to rely on the exemption of section 1823(f)(4)(E) for NCNB to acquire banking institutions in Kentucky because such an acquisition is permissible even though Texas maybe deemed to be NCNB's principal place of business under Kentucky law. _See_ Ky. Rev. Stat. Ann. § 287.900(6)(b),(c); Tex. Rev. Civ. Stat. Ann. art. 342-916.

that its approval of this proposal is not prohibited by the Douglas Amendment. However, approval of this proposal is conditioned upon NCNB receiving all required state regulatory approvals.[9/]

Financial and Managerial Considerations

In evaluating an application under section 3 of the BHC Act, the Board is required to consider the financial and managerial resources and future prospects of the companies and banks involved and the effect of the proposed acquisition on those resources. The Board regards capital adequacy as an especially important factor in the analysis of bank holding company expansion proposals, particularly in transactions involving a significant acquisition, such as in this case.

In this regard, the Board expects banking organizations contemplating expansion proposals to maintain strong capital levels substantially above the minimum levels specified in the Board's Risk-Based Capital Guidelines.[10/] The Board carefully analyzes the effect of expansion proposals on the preservation or achievement of strong capital levels and has adopted a policy

---

9/ To date, the state banking supervisors in Maryland, Tennessee, Virginia, Georgia, and the District of Columbia have approved this proposal, and the Florida State Comptroller has indicated that no application is necessary for NCNB to make the proposed acquisition in Florida. The appropriate state banking supervisors in Kentucky and South Carolina have each indicated preliminarily that NCNB's proposed acquisition of banking institutions in its state is not prohibited by the relevant state banking statutes.

10/ Risk-Based Capital Guidelines, 12 CFR 225, Appendices A, B and D. (1991).

that there should be no significant diminution of financial strength below these levels for the purpose of effecting major expansion proposals.[11/]

In this case, NCNB proposes to acquire all of the outstanding common and preferred shares of C&S/Sovran through a share exchange. NCNB will incur no debt as a result of the transaction. Upon consummation of the proposal, NCNB will remain well capitalized, with capital ratios significantly above the minimum levels specified in the Board's Risk Based Capital Guidelines. In addition, NCNB has recently raised capital and intends to raise additional capital following consummation of this transaction. The proceeds of these capital issuances will be available for capital contributions to subsidiary banks as necessary to ensure that the subsidiary banks have acceptable capital ratios.

The facts of record also demonstrate that NCNB has competent and experienced management.[12/] NCNB proposes that

---

[11/] The Bank of New York Company, Inc., 74 Federal Reserve Bulletin 257 (1988); Chemical New York Corporation, 73 Federal Reserve Bulletin 378 (1987); Citicorp, 72 Federal Reserve Bulletin 497 (1986); National City Corporation, 70 Federal Reserve Bulletin 743 (1984).

[12/] In addressing the managerial considerations of this proposal, the Board has carefully considered several comments that related to the operations of the subsidiary banks of NCNB and C&S/Sovran. Some comments related to particular consumer and business dealings, including loan transactions, involving certain of NCNB's and C&S/Sovran's subsidiary banks. One comment alleged that one of C&S/Sovran's subsidiary banks engaged in discrimination in selecting appraisers to perform real estate appraisal work involving federally-related transactions in Florida. Another comment alleged that one of C&S/Sovran's

(continued...)

NationsBank will provide C&S/Sovran's subsidiary banks with new management officials with demonstrated management capability, to the extent necessary. NCNB projects that combining the operations of NCNB and C&S/Sovran will enable the subsidiary banks of NationsBank to provide more efficiently a full range of services to their customers and the communities they serve.

Based on the entire record, the Board concludes that the financial and managerial resources and future prospects of NationsBank and its subsidiaries are consistent with approval of these applications.13/

---

12/ (...continued) subsidiary banks had mishandled, as trustee, an employee stock ownership plan that is currently the subject of litigation. Still another comment alleged that NCNB has denied family inheritance rights to a checking account that was established at a bank acquired by NCNB. Finally, a commenter alleged that NCNB has violated certain federal securities laws. The Board has reviewed these comments in light of all of the facts of record in this case, including information responding to these comments provided by NCNB and information provided by other federal regulatory agencies. Based on this review, the Board concludes that these comments do not reflect so adversely upon the managerial resources of NCNB as to warrant denial of these applications.

13/ The Board has received comments from individuals who question the viability of NationsBank in light of the financial condition of NCNB and C&S/Sovran, and who voiced concern about the potential loss to the Federal Deposit Insurance Corporation ("FDIC"), that could result from the failure of NationsBank. Another commenter questioned the effectiveness of the due diligence review process used by NCNB in evaluating the financial condition of C&S/Sovran. The Board has carefully considered these comments and, based on all the facts of record, including review of relevant examination reports, and for the reasons discussed in this Statement, concludes that these objections do not warrant denial of these applications.

Competitive Factors

NCNB and C&S/Sovran compete directly in 33 banking markets in Florida, Georgia, Maryland, South Carolina and Virginia. The relative size of NationsBank in Florida, Georgia, Maryland, and Virginia following consummation of this proposal is described in the Appendix to this Statement. After considering the relatively small increase in concentration that consummation would cause, the number of competitors that would remain following consummation of the proposal, the attractiveness for entry by other competitors of the markets involved, and the competition offered by thrifts[14/] in 28 of these banking markets,[15/] as well as other facts of record,[16/] the Board

---

[14/] The Board previously has indicated that thrift institutions have become, or have the potential to become, significant competitors of commercial banks. See, e.g., First Union Corporation, 76 Federal Reserve Bulletin 83 (1990). In considering the competition offered by thrifts in all banking markets in this case, thrift deposits are weighted at 50 percent, unless otherwise noted. See, e.g., Fleet/Norstar Financial Group, Inc., 77 Federal Reserve Bulletin 751 (1991).

[15/] These banking markets are: the Fort Myers, Hernando County, Jacksonville, Leon County, Miami, Naples, North Brevard, Orlando, Port Charlotte, St. Petersburg, Sarasota, South/Central Brevard, Tampa and Venice banking markets in Florida; the Anderson County, Charleston, Florence County, Georgetown County, Greenville, Horry County, Oconee County, Orangeburg County, Spartansburg and Sumter County banking markets in South Carolina; the Atlanta and Augusta banking markets in Georgia; and the Baltimore, Maryland, and Washington, D.C. banking markets.

[16/] Under the revised Department of Justice Merger Guidelines, 49 Federal Register 26,823 (1984), a market in which the post-merger Herfindahl-Hirschman Index ("HHI"), is above 1800 is considered to be highly concentrated. In such markets, the Department is likely to challenge a merger that increases the HHI by more than 50 points. The Department has informed the Board that a bank merger or acquisition generally will not be

(continued...)

concludes that consummation of this proposal would not result in significantly adverse effects on competition or the concentration of banking resources in any of these 28 banking markets.[17]

South Carolina Banking Markets

NCNB owns the third largest depository institution in South Carolina, holding $2.4 billion in deposits, representing approximately 12.4 percent of the total deposits in commercial banking organizations in the state. C&S/Sovran owns the second largest depository institution in South Carolina, with $2.9 billion in deposits, representing approximately 15.6 percent of the total deposits in commercial banking organizations in the state. Upon consummation of this proposal, NationsBank would become the second largest depository organization in South

---

[16] (...continued) challenged (in the absence of other factors indicating anticompetitive effects) unless the post-merger HHI is at least 1800 and the merger increases the HHI by more than 200 points. The Justice Department has stated that the higher than normal HHI thresholds for screening bank mergers for anticompetitive effects implicitly recognize the competitive effect of limited-purpose lenders and other non-depository financial entities.

[17] The Board has received and carefully considered several comments regarding the competitive effects of this proposal in particular banking markets as well as comments generally alleging that the proposal would result in substantially anticompetitive effects in Florida, the Southeast, or in other broadly defined geographic regions. The Board continues to believe that the appropriate geographic market for reviewing the competitive effects of bank acquisition proposals is local in nature. See, e.g., First Hawaiian, Inc., 77 Federal Reserve Bulletin 52 (1991); United States v. Philadelphia National Bank, 374 U.S. 321 (1963). Based on the facts of record, and for the reasons discussed in this Statement, the Board concludes that this proposal would not substantially lessen competition for banking services, or result in an undue concentration of resources, in any relevant banking market.

Carolina, with deposits of $5.3 billion, representing approximately 28 percent of total deposits in commercial banking organizations in South Carolina.

NCNB and C&S/Sovran compete in a total of 15 banking markets in South Carolina. For the reasons noted above, consummation of the proposal would not have a significantly adverse effect on competition in 10 of these banking markets.[18/] In five of the markets in South Carolina, the increase in market concentration, as measured by the resulting HHI calculation for each market, indicates that further analysis is necessary to determine whether consummation of this proposal would result in significantly adverse effects on competition in any of these markets. These markets are the Beaufort County, Darlington County, Newberry County, Greenwood County and Columbia, South Carolina, banking markets. NCNB has proposed divestitures to mitigate the anticompetitive effects of the proposed mergers in four of these markets.[19/]

---

[18/] See supra note 15.

[19/] In each market in which NCNB has committed to divest branch offices to mitigate possible anticompetitive effects of its proposal, NCNB has executed sale agreements which require consummation of these divestitures within six months of consummation of the proposal. If NationsBank is unsuccessful in divesting these branches within 180 days of consummation, NationsBank has agreed to transfer these branches to an independent trustee authorized to sell these branches promptly and to remit the proceeds to NationsBank. See, e.g., United New Mexico Financial Corporation, 77 Federal Reserve Bulletin 484, 485 (1991); First Union Corporation, 76 Federal Reserve Bulletin 83 (1990).

In the Beaufort County banking market,[20] NCNB is the third largest of ten depository institutions, holding $148.9 million in deposits.[21] C&S/Sovran is the second largest depository institution in the market, with approximately $167.1 million in deposits. The Board has previously determined that thrifts are fully competitive with commercial banks in this market and, as a result, that the market share of thrifts operating in this market should be fully weighted in considering the competitive effects of transactions in this market.[22] With the market share of thrift competitors weighted at 100 percent, NationsBank would become the largest depository institution in this market upon consummation of this transaction, holding $316.0 million in deposits, representing approximately 38.8 percent of market share. Upon consummation of this proposal, the HHI in this market would increase by 752 points to 2,552.

NCNB has committed to divest five branches in this market, representing approximately $74.8 million in deposits, to the two banks having the smallest market shares in this market. Following the proposed divestiture in Beaufort County, NationsBank would be the largest depository institution in this market, holding $241.3 million in deposits, representing

---

20/ The Beaufort County banking market is approximated by all of Beaufort County.

21/ Market deposit data are as of June 30, 1990.

22/ See South Carolina National Corporation, 76 Federal Reserve Bulletin 1,060, 1,061 n.6 (1990)("SCNC").

approximately 29.4 percent of market share. The HHI in this market, after giving effect to consummation of this proposal and all divestitures, would increase by 187 points to 1,987. There would be one fewer independent competitor in the Beaufort County banking market following the proposal and divestitures, but nine depository institutions would remain in this market.

In the Darlington County banking market,[23/] NCNB is the second largest of eight depository institutions, with $70.6 million in deposits, which represents approximately 22.8 percent of the total deposits in that market.[24/] C&S/Sovran is the third largest depository institution in the market, with $43.9 million in deposits, which represents approximately 14.2 percent of market deposits. Upon consummation of this transaction, the HHI in this market would increase by 644 points to 2,527.

NCNB has committed to divest one branch in this market, representing approximately $23.3 million in market deposits, to a bank not currently operating in this market. With this divestiture, the number of other competitors remaining in the Darlington County banking market following consummation of this

---

23/ The Darlington County banking market is approximated by all of Darlington County.

24/ Thrift deposits are weighted at 50 percent in the remaining South Carolina banking markets, except the Columbia, South Carolina banking market discussed below. See supra, footnote 14.

proposal will not change, and the HHI in this market would increase by 202 points to 2,086.[25/]

In the Newberry County banking market,[26/] NCNB is the third largest of seven depository institutions, holding $47.2 million in deposits, which represents approximately 19.7 percent of the total deposits in that market. C&S/Sovran is the fifth largest depository institution in the market, with $18.4 million in deposits, which represents approximately 7.7 percent of market deposits. Upon consummation of this transaction, the HHI in this market would increase by 302 points to 2,203.

NCNB has committed to divest one branch in this market, representing approximately $15.3 million in market deposits, to a bank not currently operating in this market. As a result of this divestiture, the number of depository institutions remaining in the Newberry County banking market will not change following consummation of the proposal, and the HHI in this market would increase by 35 points to 1,935.[27/]

---

25/ Following this proposed divestiture in Darlington County, NationsBank would be the 2nd largest depository institution in the market, controlling approximately $91.3 million in deposits, representing approximately 29.4 percent of market share.

26/ The Newberry County banking market is approximated by all of Newberry County.

27/ Following this divestiture in Newberry County, NationsBank would be the 3rd largest depository institution in this market, controlling approximately $50.2 million in deposits, representing approximately 21 percent of market share.

In the Greenwood County banking market,[28] NCNB is the largest of ten depository institutions, with $148.2 million in deposits, which represents approximately 32.2 percent of the total deposits in that market. C&S/Sovran is the seventh largest depository institution in the market, with $14.7 million in deposits, which represents approximately 3.2 percent of deposits in the market. Upon consummation of this transaction, the HHI in this market would increase by 205 points to 2,205.

NCNB has committed to divest one branch in this market, representing approximately $25.2 million in market deposits, to a bank not currently operating in this market. With this divestiture, the number of competitors remaining in the Greenwood County banking market following consummation of NCNB's acquisition of C&S/Sovran will not change, and the HHI in this market would decrease by 122 points to 1,877.[29]

In the Columbia banking market,[30] NCNB is the third largest of 22 depository institutions, with $507.7 million in deposits, which represents approximately 11.8 percent of the total deposits in that market. C&S/Sovran is the second largest depository institution in the market, holding $725.3 million in

---

28/ The Greenwood County banking market is approximated by all of Greenwood County.

29/ Following this proposed divestiture in Greenwood County, NationsBank would be the largest depository institution, controlling approximately $137.7 million in deposits, representing approximately 29.9 percent of market share.

30/ The Columbia banking market is approximated by Richmond and Lexington Counties.

deposits, which represents approximately 16.9 percent of market deposits. Upon consummation of this transaction, the HHI in this market would increase by 401 points to 2,159.

The record indicates that thrift institutions in Columbia compete actively in the full range of banking products and services, providing transaction as well as traditional savings accounts, and engaging actively in commercial and consumer lending.[31/] Thrift institutions in the Columbia market also maintain on average a significantly higher percentage of assets in commercial loans and consumer loans than thrift institutions generally.[32/] The Board believes that the provision of these products and services by thrifts in the Columbia banking market as well as the prospect that these institutions will exercise their existing authority to expand these activities justify including thrift institutions as full competitors of banks in the calculation of market share in this market.[33/]

---

31/ Thrifts in this banking market offer FDIC-insured transaction accounts, consumer loans, commercial real estate loans and other commercial loans, as well as mortgage and home improvement loans.

32/ On average, commercial loans account for approximately 5.4 percent of the assets of thrifts in the Columbia market, compared to a national average of 2.6 percent of thrift assets.

33/ The Board has recognized in other decisions that thrifts in certain markets compete fully with banks and should be fully weighted in analyzing the competitive effect of bank expansion proposals. See, e.g., SCNC; BanPonce Corporation, 77 Federal Reserve Bulletin 43 (1991); Fleet Financial Group, Inc., 74 Federal Reserve Bulletin 62 (1988). The Board received one comment asserting that inclusion of thrift deposits in

(continued...)

With thrift deposits weighted at 100 percent, NationsBank would control approximately 25.9 percent of market deposits upon consummation of the proposal. The resulting HHI for the Columbia banking market would be 1,820, representing an increase of 324 points. However, the Board notes that this resulting HHI is only slightly above the level of a moderately concentrated market, and there are several mitigating factors. In particular, twelve commercial banks and nine thrifts would remain as competitors in the market after consummation of the proposal. In addition, the record indicates that the market is very attractive for entry.[34/]

Based on all of the facts of record in this case, and subject to the divestiture proposals made by NCNB in this case, the Board concludes that consummation of this proposal would not have a significantly adverse effect on competition or the

---

[33/](...continued) calculating HHI figures in banking markets overemphasizes the competition that thrifts pose to banks and, therefore, thrift deposits should not be accounted for at all in calculating these figures. In particular, this commenter challenged NCNB's assertion that thrifts in Columbia are fully competitive with banks. As noted in this Statement, the Board has reviewed data from thrift institutions in the Columbia banking market, and has concluded, based on those data, that thrift institutions are active competitors of banks in providing the cluster of banking products and services in the Columbia banking market, and should be weighted fully in determining the relevant market share in this case. See id.

[34/] In this regard, the record indicates that per capita income, population per banking office, total deposits per banking office, and total deposits are higher in the Columbia market than in other urban markets in South Carolina. Since 1986, four commercial banks and one thrift institution have entered the market on a de novo basis.

concentration of banking resources in the Beaufort County, Darlington County, Newberry County, Greenwood County, or Columbia South Carolina banking markets, or in any other relevant banking market. The Board has sought comments from the United States Attorney General, the Office of the Comptroller of the Currency ("OCC"), and the FDIC on the competitive effects of this proposal. The Attorney General has indicated that, subject to consummation by NCNB of the proposed divestitures in the Beaufort County, Darlington County, Newberry County and Greenwood County banking markets, the proposal would not have significantly adverse effects on competition in any relevant banking market. Neither the OCC nor the FDIC has provided any objection to consummation of this proposal or indicated that the proposal would have any significantly adverse competitive effects.

Convenience and Needs Considerations

In analyzing the effect of this merger on the convenience and needs of the communities served by NCNB and C&S/Sovran, the Board has taken into account the record of the subsidiary banks of NCNB and C&S/Sovran under the Community Reinvestment Act (12 U.S.C. § 2901 et seq.) ("CRA"). The CRA requires the federal financial supervisory agencies to encourage financial institutions to help meet the credit needs of the local communities in which they operate consistent with the safe and sound operation of such institutions. To accomplish this end, the CRA requires the appropriate federal supervisory authority to "assess the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such institution," and to take that record into account in its evaluation of bank holding company applications.[35/]

Public Comments on Convenience and Needs

In order to collect information concerning the convenience and needs of the communities to be served by the proposed acquisition, including the records of performance of the affected institutions under the CRA, and in view of the widespread public interest in the proposal, the Board held public meetings regarding this proposal. These public meetings were held on October 7-9, 1991, in Richmond, Virginia; Dallas, Texas; Charlotte, North Carolina; and Atlanta, Georgia. In addition, the Board provided an extended period for interested persons to submit written comments regarding this proposal. Over 100 individuals testified at the public meetings; many of these commenters also submitted written comments. Over 50 additional commenters submitted written comments but did not appear at the public meetings.[36/] The Board has considered all testimony and written comments in its evaluation of the convenience and needs factors in this case.

---

35/ 12 U.S.C. § 2903.

36/ The Board also has considered additional comments filed after the close of the public comment period. Under the Board's rules, the Board may in its discretion take into consideration the substance of such comments. 12 C.F.R. 262.3(e).

Approximately 60 commenters indicated that the convenience and needs factor warranted approval of this proposal, primarily in light of the CRA performance records of NCNB or C&S/Sovran. These commenters noted positive business or community relationships with the institutions and identified specific programs provided by the institutions that benefitted the community, including participation in programs to finance low- and moderate-income housing, provision of financial and technical assistance to community organizations, and assistance in community development projects. A number of commenters maintained that the merger would result in financially stronger banks that would be better able to serve their communities.

Approximately 100 commenters were critical of the CRA performance records of NCNB or C&S/Sovran or had concerns relating to the future effects of the proposed merger (collectively, "Protestants").[37/] Protestants made a variety of claims, including that:

(1) the institutions' ascertainment and assessment of the credit needs of minority and low- and moderate-

---

[37/] Several Protestants alleged NCNB and C&S/Sovran have not employed minorities in decision-making positions. NCNB and C&S/Sovran dispute this allegation, and note that each organization follows a policy of equal employment opportunity throughout the respective organization and has directors that reflect racial diversity. While the Board fully supports affirmative programs designed to promote equal opportunity in every aspect of a bank's personnel policies and practices in the employment, development, advancement, and treatment of employees and applicants for employment, the Board believes that the banks' general personnel practices are beyond the scope of factors that may be assessed under the CRA.

income communities, small cities and rural areas, are inadequate;[38]

(2) the institutions' efforts to market and advertise their products and services, particularly to minorities and to low- and moderate-income communities, small cities and rural areas, are inadequate;

(3) the institutions fail to offer consumer services that meet the credit needs of low- and moderate-income persons and, in particular, charge excessive fees for checking accounts[39], and have an insufficient number of bank branches in minority and low- and moderate-income communities;

(4) the institutions are failing to meet the housing and small business credit needs of their communities, particularly with respect to minorities and low- and moderate-income communities, small cities and rural areas;

---

38/ Some Protestants alleged that NCNB and C&S/Sovran are not in some instances accurately representing certain aspects of its CRA program and performance, including outreach to community groups. NCNB has responded to these comments by providing documentation of CRA performance and outreach efforts. The Board notes that recent regulatory examinations found no evidence of misrepresentations regarding these areas and that NCNB's and C&S/Sovran's CRA statements generally complied with applicable requirements. The Board has carefully considered these allegations, and based on all the facts of record, has concluded that they do not warrant denial of the applications. The Board expects that all aspects of CRA performance and outreach will be accurately represented in the CRA statements of the NCNB and C&S/Sovran subsidiary banks, and intends to consider this issue in future applications.

39/ Both NCNB and C&S/Sovran offer a variety of affordable checking and check cashing services. For example, NCNB's Economy Checking product features no required minimum balance, a minimum of $25 to open an account, and nine free checks per month, with a monthly service charge of $3. NCNB also offers regular checking requiring a minimum of $100 to open an account, free unlimited checks and no monthly service charge with a minimum $500 balance, and free ATM accessibility on all NCNB machines. NCNB's basic savings product features a $25 minimum to open an account, no monthly service charge with a minimum $250 balance, free ATM accessibility on NCNB machines, and provides direct deposit services. Further, government check cashing services are available to non-depositors as well as depositors at all NCNB and C&S/Sovran branches.

(5) 1990 Home Mortgage Disclosure Act ("HMDA") data indicate illegal discriminatory lending practices by the institutions;[40/]

(6) the proposal would result in a large centralized organization that will reduce activities in, and will not be responsive to, local communities; and

(7) the proposal would result in substantial job loss and relocation for the institutions' employees.[41/]

A. CRA Performance Examinations

The Board has carefully reviewed the CRA performance records of NCNB, C&S/Sovran, and their subsidiary banks, the comments and evidence presented at the public meetings and in written submissions, and NCNB's responses to those comments, in

---

40/ Several Protestants alleged that their individual loan denials evidence a failure by the institutions to comply with the CRA. Some Protestants alleged that the classification or non-renewal of their loans by NCNB's bank subsidiary in Texas, following NCNB's acquisition of the bank subsidiaries of First RepublicBank Corporation, evidence a failure by NCNB to meet the credit needs of small businesses throughout Texas. NCNB has provided information regarding these loan transactions and its role as agent in managing the assets of First RepublicBank. After careful consideration of the comments and all the evidence in the record, including small business and other loan programs in which NCNB-TX participates, the Board concludes that these comments do not reflect so adversely on the factors considered by the Board under the BHC Act as to warrant denial of the applications.

41/ NCNB has indicated that 8,000 to 9,000 personnel reductions may occur over a three-year period in significant part through attrition. NCNB states that NationsBank will offer a variety of services to assist employees of the merging institutions whose jobs may be eliminated, including placement services for available positions within NationsBank, outplacement services, and relocation financial assistance. In connection with NCNB's plans concerning the possible consolidation of branch and other facilities, NCNB may be subject in some circumstances to the Worker Adjustment and Retraining Notification Act of 1988 (29 U.S.C. § 2101), requiring advance notice to employees for closings of certain facilities. NCNB has stated that it and NationsBank will fully comply with the provisions of this statute where applicable and with all requirements of law.

light of the CRA, the Board's regulations, and the Statement of the Federal Financial Supervisory Agencies Regarding the Community Reinvestment Act ("Agency CRA Statement").[42/] The Agency CRA Statement provides guidance regarding the types of policies and procedures that the supervisory agencies believe financial institutions should have in place in order to fulfill their responsibilities under the CRA on an ongoing basis, and the procedures that the supervisory agencies will use during the application process to review an institution's CRA compliance and performance. The Agency CRA Statement explains that decisions by agencies to allow financial institutions to expand will be made pursuant to an analysis of the institution's overall CRA performance and will be based on the actual record of performance of the institution.[43/]

Initially, the Board notes that all of NCNB's eight subsidiary banks, as well as C&S/Sovran's subsidiary banks, have received a satisfactory rating from their primary supervisors during the most recent examination of each bank's CRA performance.[44/] The Agency CRA Statement provides that a CRA

---

42/ 54 Federal Register 13,742 (1989).

43/ Id.

44/ The OCC has rated the performance of the following NCNB banks as satisfactory under the CRA as of November 15, 1991: NCNB National Bank, Atlanta, Georgia; NCNB National Bank of Florida, Tampa, Florida; NCNB National Bank of South Carolina, Columbia, South Carolina; NCNB Texas National Bank, Dallas, Texas; NationsBank, N.A., Dover, Delaware; NCNB National Bank of North Carolina, Charlotte, North Carolina; and NCNB National Bank of Maryland, Baltimore, Maryland. In addition, the FDIC has

(continued...)

examination is an important and often controlling factor in the consideration of an institution's CRA record and that, although CRA examination reports do not provide conclusive evidence of an institution's CRA record, these reports will be given great weight in the applications process.[45]

The Board notes that the preliminary results of recently conducted compliance examinations by bank supervisory agencies have identified areas for improvement in the otherwise satisfactory CRA performance of NCNB and C&S/Sovran. In particular, the preliminary results of these examinations suggested the need to improve: (1) documented ascertainment efforts to determine the unmet credit needs of all communities; (2) involvement at the local level with product development and CRA goal setting; (3) systems to analyze and test for geographical distributions of loan application data and the

---

44/ (...continued)
rated NCNB Virginia, McLean, Virginia, satisfactory during the most recent examination of the bank's CRA performance.

The OCC has rated the CRA performance of the following C&S/Sovran banks as satisfactory as of October 11, 1991: The Citizens and Southern National Bank of Georgia, Savannah, Georgia; Sovran/DC National Bank, Washington, D.C.; The Citizens & Southern National Bank of South Carolina, Columbia, South Carolina; The Citizens & Southern National Bank of Florida, Fort Lauderdale, Florida; and Sovran Bank, N.A., Richmond, Virginia. The FDIC has rated Sovran Bank/Maryland, Bethesda, Maryland, satisfactory during the most recent examination of the bank's CRA performance. The Federal Reserve Bank of Atlanta has rated Sovran Bank/Tennessee, Nashville, Tennessee, satisfactory during the most recent examination of the bank's CRA performance, and the Federal Reserve Bank of St. Louis has rated Sovran Bank/Kentucky, Hopkinsville, Kentucky, satisfactory during the most recent examination of the bank's CRA performance.

45/ 54 Federal Register at 13,745.

linkage between ascertainment efforts, design and marketing of products, and measurement of performance; and (4) extended CRA training to include all personnel with customer contact. The Board expects NCNB and NationsBank to take immediate steps to address the regulatory concerns noted in the recently conducted CRA performance examinations.

The Board has also considered the individual aspects of the CRA programs and records of NCNB and C&S/Sovran as well as the proposed NationsBank community investment program.

B. <u>Corporate Program and Policies</u>

Both NCNB and C&S/Sovran and their subsidiary banks have in place the type of policies outlined in the Agency CRA Statement that contribute to an effective CRA program. The NCNB corporate CRA policy sets out CRA-related goals for all NCNB banks, and NCNB has established comprehensive community development programs in each of the states in which it currently operates. The NCNB Community Investment Policy is designed to implement those goals through initiatives in the following areas: community needs assessment, product development, target marketing, internal assessment and review, management involvement, employee training, and community education and community economic development activities. The C&S/Sovran corporate program includes an annual review of each bank's CRA statement and a self-assessment by each bank of its CRA performance to determine whether each bank is addressing its responsibilities to the community under the CRA.[46/]

As part of their CRA programs, NCNB's and C&S/Sovran's boards of directors are involved in formulating policies and reviewing the institutions' performance under the CRA. CRA committees of the boards of directors of NCNB subsidiary banks monitor performance under the goals set in the NCNB Community Investment Policy and in the CRA policies of each subsidiary bank. These committees make full reports periodically to their respective boards. Reports on CRA developments at all of the NCNB banks are also reported quarterly to the CRA subcommittee of the parent holding company's board of directors.

C&S/Sovran's subsidiary banks have also each established a board of directors' committee to monitor, on an ongoing basis, the CRA performance of the bank as well as progress in meeting targeted goals. Each bank's CRA officer reviews quarterly assessments of CRA performance and progress toward meeting established goals for each delineated community and reports the results to senior management of the bank, its board of directors, and to the Corporate CRA officer.

---

46/ The C&S/Sovran self-assessment program requires each bank to (1) establish annual CRA goals, with special attention to low- and moderate-income neighborhoods; (2) conduct quarterly evaluations of bank activities in each city, county, or region in the bank's delineated service area and evaluate annually the bank's performance under its CRA goals; and (3) conduct an annual geographic analysis of credit applications, denials and approvals.

NCNB states that NationsBank will adopt a corporate community investment policy statement that will combine elements of the existing NCNB and C&S/Sovran corporate policies, programs and commitments. The proposed NationsBank Corporate Community Investment Policy establishes program goals at three levels: national corporate, local community, and targeted neighborhoods.

Several Protestants have raised concerns that NationsBank would operate under centralized decision-making authority away from local bank and branch management and, therefore, would not be responsive to the local communities in which its banks operate.[47/] NCNB has stated that, while broad policy goals will be developed through centralized decision-making functions,[48/] each bank will also establish local goals

---

47/ Some Protestants have also commented that the proposal would result in fewer branch banking offices and could adversely affect senior citizens, and minority and low- and moderate-income communities. NCNB states that the NationsBank Branch Opening/Closing Policy will at a minimum include the elements governing NCNB's branch policy. NCNB performs periodic analyses of branch dispersion to identify underserved areas and to target areas for expansion, and its branch development efforts have emphasized expansion in low- and moderate-income areas. Since January 1990, NCNB has targeted for development four branches specifically for low- and moderate-income areas. Two of these branches have opened, one is under construction, and one site is being acquired. In addition, NCNB assesses the potential impact on the community prior to closing an office by considering information from members of the community in order to minimize the adverse impact of an office closing. NCNB's branch closing policy requires approval from the Community Investment Executive, written notice to the branch's customers at least 30 days prior to the closure and meetings with key neighborhood and political leaders to assess the impact of the closure.

48/ Corporate-wide goals setting forth minimum standards will be established for the areas of needs assessment activity, general credit extension, residential mortgage credit extension,

(continued...)

annually for the extension of community development credit in each local community served by the bank.[49] NCNB proposes that each bank will define a neighborhood or geographic region within its community delineation to receive concentrated emphasis, under the "NationsBank Neighborhood" designation, in the implementation of the NationsBank community development program. In addition, under the proposal, each banking subsidiary will maintain a board of directors CRA Committee which will have ultimate oversight responsibility for community investment strategy and performance and will meet prior to each regularly scheduled board of directors meeting to review initiatives and performance measures. NCNB states that a CRA Management Committee will be established for certain geographic regions currently anticipated to be defined by states. The regional CRA committees are intended to serve as a source of strategic direction and support to the community investment process and will meet formally on a quarterly basis.

---

48/(...continued)
program development such as public/private partnerships, business development/outreach activity such as calls on community development organizations, and targeted marketing.

49/ Under the proposal, each NationsBank subsidiary bank will adopt its own community investment policy modeled on the corporate format. NationsBank will coordinate the review of each subsidiary bank's CRA Statement and develop a consistent format subject to review by the bank's board of directors. NCNB intends that these CRA Statements will contain both consistent corporate goals and initiatives as well as unique local programs and initiatives, all of which would be implemented by each bank according to local community needs.

C. Ascertainment and Outreach Efforts

NCNB's activities to ascertain the credit needs of the communities it serves are formalized in its Community Needs Assessment Initiative Summary. This policy includes: (1) an annual survey of government and community leaders, with results compiled on a community basis and summarized on a statewide basis; (2) targeted community outreach efforts compiled for each community and summarized for each state on a quarterly basis; and (3) an assessment survey of individuals in these communities. The needs assessment process is the responsibility of the Community Investment Coordinator in the major markets and of the senior banking executive in the community banks.[50/] In addition, NCNB maintains contact with individuals and groups representing civic, governmental, religious, neighborhood, minority, small business, and commercial and residential real estate development organizations. In 1990, NCNB made over 25,000 calls on minority-owned firms, small businesses, community groups and governmental agencies to assess community needs and to market NCNB products and services.[51/] NCNB also sponsored or

---

50/ NCNB's state CRA Management Committees and the state board of director CRA Committees review the results of the needs assessment process and NCNB's response to the needs identified.

51/ NCNB's Mortgage Corporation has established internal goals regarding calls to brokers and agents operating in or specializing in low- and moderate-income areas. That program resulted in 2,142 business development calls in 1990. In addition, NCNB's Corporate Goals statement provides that not less than 10 percent of total business development calls by consumer and commercial units are to be made on minority-owned firms.

participated in more than 170 programs targeted at educating consumers and small business owners.[52]

C&S/Sovran also ascertains community credit needs through various means[53], including direct forms of community contact. Through its officer call program, consumer and commercial officers call on a variety of consumer and community organizations, small and minority business, government agencies, local elected officials, non-profit organizations, housing and real estate groups and educational organizations. C&S/Sovran mortgage originators also meet with community representatives to discuss low- and moderate-income housing needs. Finally, C&S/Sovran officers and directors serve on numerous public and private sector boards and commissions through which the credit and banking needs of all segments of the community may be identified and appropriate responses developed.

---

52/ NCNB generally conducts consumer counseling and education programs in conjunction with local community groups. For example, programs are conducted with the Urban League in several markets, including Charlotte, North Carolina, Columbia, South Carolina, and Houston and Dallas, Texas. NCNB has other educational program efforts underway in conjunction with ACORN, the NAACP, local Chambers of Commerce, local churches, and local educational institutions and counseling centers.

53/ In selected service areas, C&S/Sovran has instituted an "Adopt-a-Tract" program as one method of improving its ascertainment efforts, particularly in low- and moderate-income census tracts. Under this program, the low- and moderate-income census tracts of a particular community are divided into small cluster groups of 4-6 tracts. Specific account officers, crossing functional lines, are assigned responsibility for these tracts, including community outreach, loan monitoring, and for recommending products or services that will fit the needs of residents of these areas.

D. Advertising and Marketing Programs

NCNB maintains a specific marketing program targeted at reaching low-income and minority consumers. The CRA Marketing Plan is created annually, distinct from general marketing efforts, and emphasizes specially targeted media and the need for bilingual advertising. In certain tracts that need additional emphasis to advertise services such as Free Checking, Base Line Checking, Government Check Cashing, and Special Mortgage Programs/Products, NCNB marketing efforts include targeted print media, direct mail, outdoor billboard advertising and radio and television advertising.

C&S/Sovran conducts regional marketing efforts in response to specific community needs, with targeted advertising and educational marketing for low- and moderate-income and minority consumers. C&S/Sovran advertises in local newspapers, on billboards, on radio stations and in civic, school and sports publications in order to communicate information on services and products to all members of the community. C&S/Sovran also makes special efforts to place advertisements in publications directed to minority and low- and moderate-income individuals, including minority-owned media and multilingual advertising, in order to communicate more effectively with targeted audiences and to provide information regarding credit availability, how to apply for credit, and C&S/Sovran's willingness to make loans.

E. Lending and Other Activities

NCNB has made a variety of efforts to meet the housing and other credit needs of communities in which it operates, including low- and moderate-income and minority communities. The NCNB Community Investment Policy states as a corporate goal the origination of 8 or more CRA loans (defined by NCNB as a commercial, consumer or real estate loan made to areas with income levels below 80 percent of the median for the area) per consumer branch per quarter, with goals measured on an aggregate basis for each state.

NCNB extended over $95 million in mortgage loans to low- and moderate-income areas in 1990. NCNB also offers various mortgage and residential lending products, including products specifically designed for the needs of low- and moderate-income consumers. NCNB has developed a Community Investment Mortgage Product targeted to low- and moderate-income families, which features flexible underwriting guidelines that allow the use of non-traditional sources of income and credit history and the waiver of origination and point fees. In order to provide flexibility with respect to this product, NCNB has committed to hold these mortgages in its own portfolio and not to sell them in the secondary market. NCNB also offers FHA and VA mortgage products and FHA Title I Home Improvement Loans. NCNB Mortgage Corporation's funding of FHA-insured and VA-guaranteed programs increased from $87 million in 1988 to $267 million in 1990.

NCNB also participated in 29 multi-bank loan pools designed to make credit more accessible to low- and moderate-income consumers and small businesses in 1990 and currently participates in over 200 public/private partnerships emphasizing innovative techniques for meeting local housing, small business and education credit needs.[54/] NCNB has designed a variety of products for the small business market, including Small Business Administration ("SBA") lending products and a lending product for minority subcontractors. NCNB is involved with the SBA in improving the delivery of government-guaranteed loans to small businesses and the Farmers Home Administration in its guarantee and subordination programs for small farms.[55/] NCNB also supports small businesses through its investment in community development corporations. In addition, NCNB intends for NationsBank to provide below-market interest rate loans for day care centers.

---

54/ Examples of these programs include the Tampa Challenge Fund, Homes for South Florida, Central Florida Community Reinvestment Funds, and First Housing Development Corporation in Florida; the Charlotte/Mecklenburg Housing Partnership, Greensboro Community Home Lending Program, and Wilmington Housing Partnership in North Carolina; the Spartanburg Residential Mortgage Pool and Greenville West Brandon Neighborhood Project in South Carolina; the Dallas Affordable Housing Partnership, Houston Affordable Housing Partnership, and Midland Housing Partnership in Texas; and the Baltimore Regional Community Development Corporation in Maryland.

55/ NCNB's South Carolina bank is a preferred lender with the SBA. In addition, lending to agricultural and rural markets will be a targeted lending area under the NationsBank Community Investment Program.

NCNB states that NationsBank will establish a residential mortgage lending goal at a level no less than NCNB's existing goal and will conduct single-family mortgage lending primarily through NationsBank Mortgage which will continue to offer NCNB's community development products. NCNB plans for NationsBank, in conjunction with community groups, to develop and make available nationwide a combination purchase/rehabilitation single-family mortgage product, which will utilize flexible underwriting and terms similar to the Community Investment Mortgage Product.[56/] NCNB also plans for NationsBank to offer consumers in low- and moderate-income categories home improvement financing products for expansion, renovation, or improvement of a home.[57/] In addition, the proposed NationsBank community investment program contains policies for the implementation of special products for affordable multi-family residential lending, small business lending, and rural and agricultural lending.

The NationsBank community investment policy, program, and strategic plan contain other elements of an effective CRA program outlined in the Agency CRA Statement. These community development initiatives include: (1) providing economic

---

56/ NCNB intends to have this product fully operational and available within 18 months after the consummation of the proposed transaction.

57/ NCNB states that specific features of the home improvement product will include: flexible underwriting criteria, a loan/value ratio of up to 80 percent, extended terms, and no title search requirement for loans under $5,000. This product has been designed to permit the use of government or other programs that provide equity grants or subordinated financing.

development loans, including loans to non-profit and government agencies and other programs serving low- and moderate-income neighborhoods, and loans made under mortgage bond programs and multi-bank loan pools; (2) providing affordable depository and transaction services, including "lifeline" checking products and government check cashing services; and (3) participating in and sponsoring educational and counseling programs for consumers and small businesses in conjunction with local and national community-based organizations.

F. CRA Activities in Selected States

Community investment activities and initiatives for NCNB and C&S/Sovran in each state have also been reviewed in light of the comments received by the Board. The following discussion provides examples of programs initiated in certain states by NCNB and C&S/Sovran.

**North Carolina.** NCNB's 1990 CRA record reflects a significant number of CRA-related activities and initiatives in North Carolina by NCNB-NC. These activities include: (1) extension of approximately $70 million in new community development, consumer, and mortgage loans; (2) participation in 16 public/private partnerships designed to make banking services more accessible to low- to moderate-income consumers and small businesses, and commitments of $10.3 million to programs including the Charlotte-Mecklenburg Housing Partnership, the Asheville-Buncombe County Minority Business Loan Pool and the Greensboro Community Home Lending Program; (3) participation in nine multi-bank loan pools involving funding commitments by NCNB-NC of $7.2 million to address affordable housing needs, small business loans, downtown redevelopment, creation of a small business "incubator" and similar programs; (4) commitment of $4 million to mortgage bond programs for affordable local housing; and (5) outreach efforts that included 397 calls on minority-owned businesses and community groups to assess community needs and to market NCNB-NC's products and services, and 163 meetings with community groups, agencies and local government officials to discuss community needs assessment.

NCNB-NC also developed a home purchase mortgage loan designed to make home purchase credit more available throughout its communities, including low- and moderate-income areas. In addition, NCNB-NC engaged in capital lending and credit education for small businesses controlled by minorities and women.[58/] NCNB-NC also markets and advertises its products through a program designed to reach all segments of the community, including low- and moderate-income areas.[59/] NCNB-NC uses its community development corporation ("CDC") to promote community

---

58/ NCNB-NC has a small business call program, including targeted calls on minority-owned firms, and also participates in the Business Consortium Fund which provides minority-owned businesses with contract financing to fill purchase orders.

59/ NCNB-NC supplements traditional media communications, including newspapers, radio, brochures, pamphlets, and billboards, with personal outreach efforts by bank officers, employees and directors.

growth and development, particularly in Charlotte and Raleigh,[60] and NCNB works with several organizations to address to some extent the credit needs in rural and small markets.[61]

**Texas.** NCNB-TX implements the NCNB CRA program in Texas. That program includes the following activities and initiatives by NCNB-TX: (1) extension of approximately $389 million in new consumer, small business and community development loans in low- and moderate-income areas; (2) participation in 123 public/private partnerships designed to make banking services more accessible to low- to moderate-income consumers and small businesses; (3) an active call program for minority-owned firms and small businesses to assess community needs and market NCNB products and services; and (4) participation in four multi-bank loan pools with an aggregate funding commitment by NCNB-TX of $18 million for affordable housing programs.

---

[60] These projects include Greenville Affordable Housing in Charlotte and Downtown East Redevelopment Area in Raleigh. Both projects provide new housing for low- and moderate-income residents.

[61] These organizations include the Community Investment Corporation of North Carolina (a state CDC specializing in multi-family lending for rural and small markets), the North Carolina Enterprise Corporation (a Small Business Investment Corporation providing mezzanine financing for rural businesses) and the North Carolina Association of CDCs (an association providing financial assistance to its 14 CDC members to help carry out economic development projects with an emphasis on projects for rural areas).

NCNB-TX has responded to identified community credit needs by participating in the Dallas Affordable Housing Partnership, the Houston Housing Partnership, and the Midland Economic Development Company.[62] In response to comments regarding NCNB-TX's small business lending, the bank has taken steps to increase its SBA lending program by establishing small business lending centers in major markets.[63]

**Virginia.** NCNB-VA has engaged in outreach efforts to various governmental, business and community groups and participated in community development lending activities consistent with its asset size.[64] In addition, NCNB-VA's board of directors has adopted a formal CRA program and appointed a community reinvestment oversight committee to monitor its CRA programs and initiatives.[65]

The CRA program implemented by Sovran-VA includes oversight by the board of directors and central coordination through a community reinvestment office.[66] Sovran-VA also has

---

62/ NCNB-TX has also participated in the Austin Double Down Program for lower income home buyers, the Southern Oaks Affordable Housing program in the Oak Cliff section of Dallas, and the Tarrant County Affordable Housing Partnership.

63/ The center in San Antonio is operating and others are currently at the staffing and implementation stage.

64/ NCNB-VA has assets of $8 million as of June 1991.

65/ NCNB-VA's entry into Northern Virginia has been recent and it has not yet fully implemented its planned marketing and advertising campaigns.

66/ Sovran-VA has also established 50 advisory boards statewide, consisting of approximately 500 members. These boards (continued...)

an active officer call program and a comprehensive plan to market its products and services throughout all segments of its delineated community. Sovran-VA employs focus groups to obtain feedback on current or proposed bank products, and conducts educational seminars for consumers.

In 1990, Sovran-VA introduced several programs emphasizing small business lending in low- and moderate-income communities.[67] Sovran-VA and its mortgage subsidiary, Sovran Mortgage Company, extended on a state-wide basis 18 percent of its mortgages and 20 percent of its home improvement loans in low- and moderate-income neighborhoods.[68] In addition,

---

[66] (...continued)
have a racially diverse membership that includes business owners, religious leaders, and community organizations.

[67] Under Sovran-VA's small business specialist program (targeting companies with annual sales under $1 million), 30 business centers assisted in generating approximately $47 million in loans in 1990. A similar program focusing on businesses with annual revenues under $10 million generated $59 million in loans in 1990. Sovran-VA also had $18 million in loans to farmers outstanding as of December 31, 1990.

[68] As of December 31, 1990, Sovran-VA and Sovran Mortgage Corporation originated 7,829 housing-related loans totalling $461 million. In April 1991, Sovran began offering its Home Mortgage Edge program that provides closing costs assistance to low- and moderate-income first-time home buyers. Sovran-VA has committed $10 million to this program for 1991 and has promoted the program through newspaper advertisements, seminars, targeted mailings and meetings with realtors. Sovran-VA also actively participates in a variety of governmentally subsidized, guaranteed, or insured loan programs.

One Protestant argued that low-income individuals may not be benefiting significantly from the Home Mortgage Edge program. This program has a maximum income eligibility requirement for borrowers and Protestant acknowledges that moderate-income, and some low-income individuals, would benefit from this program. Even if the allegation is correct that
(continued...)

Sovran-VA's CDC participates in programs designed to revitalize low- and moderate-income areas.[69]

**Georgia.** C&S-GA's participation in community development and redevelopment programs throughout the state is substantial. *In addition, C&S-GA plans to implement an automated* system for tracking the geographic distribution of its loan applications and denials.

Outreach efforts to minority organizations have assisted C&S-GA in identifying and meeting the need for educational programs for minority small business owners.[70] As a result, C&S-GA has developed a program to sponsor small business seminars targeted to the minority community, including communities in Atlanta, Savannah and other areas. C&S-GA is also conducting a direct mail campaign to targeted low- and moderate-income census tracts in order to increase its market penetration in those areas after reviewing 1989 lending results.

---

68/ (...continued) moderate-income and, only to a lesser extent, low-income individuals, benefit from this program, the Board notes that the CRA seeks to encourage lending in both low- and moderate-income areas and that this program is only one of a number of programs in which Sovran-VA participates as a means of helping to meet the credit needs of various segments of Sovran-VA's community.

69/ Sovran-VA also has a sponsorship role in the Virginia Economic Development Corporation which promotes economic development of depressed rural areas.

70/ These organizations include the National Association for the Advancement of Colored People, the Southern Christian Leadership Council, the Atlanta Business League, and minority leaders within Georgia communities.

C&S-GA and other local financial institutions have created the Atlanta Mortgage Consortium ("AMC") which offers reduced rate mortgage loans to low- and moderate-income individuals who might not qualify for conventional mortgage financing. C&S-GA has committed approximately $5 million to AMC's loan pool.71/ In addition, C&S-GA participates in the Atlanta Equity Fund ("AEF"), which was established to assist in meeting the need for multi-family housing.72/ C&S-GA also works with the Housing Resource Center to support affordable housing. In Savannah, C&S-GA participated with the Community Housing Services Agency in a $1.1 million loan to renovate 49 low-income rental units.73/

**Florida.** NCNB-FL has engaged in a variety of CRA-related activities, including: (1) extension of more than

---

71/ Since 1988, AMC has made over 600 loans totalling over $30 million to home buyers in low-income neighborhoods in the Atlanta area.

72/ Some Protestants have criticized the funding and progress made by this program. The Board notes that the AEF is one of a number of programs in which C&S/Sovran participates in an effort to help meet the credit needs of the Atlanta community. The Board also notes that C&S/Sovran has continued its commitment throughout the development of the AEF from the formation of its structure to its corporate fund raising. Recently, the City of Atlanta and the Atlanta Chamber of Commerce have made a major commitment to sponsor the AEF, and the Enterprise Foundation has pledged to invest up to $1 million in the AEF to match corporate investment commitments.

73/ Some Protestants questioned C&S-GA's branch closing policy. Under C&S-GA's written policy covering branch closings, reductions in service and change in hours, C&S-GA discusses the changes with community leaders, assesses the impact of the changes, and attempts to minimize the adverse effects of these changes on the communities served.

$35.5 million in mortgage loans in low- to moderate-income areas; (2) commitments of $10 million to the Florida State Bond Issue to provide mortgage financing to low- to moderate-income families; and (3) participation in 25 public/private partnerships designed to make banking services more accessible to low- to moderate-income consumers and small businesses by committing more than $26 million to programs, including First Housing Development Corporation, Homes for South Florida, Central Florida Community Re-Investment and Tampa Challenge Fund.

NCNB-FL also maintains extensive contact with a variety of community members to determine community credit needs and to develop products that satisfactorily address those needs. In addition, NCNB-FL participates in community development and redevelopment projects. The following are examples of the types of projects in which NCNB-FL has participated throughout Florida: (1) Hillsborough County--City of Tampa Challenge Fund II (financing for rehabilitation housing in low- and moderate income areas) and First Housing Development Corporation (construction and rehabilitation of low- to moderate-income multi-family rental housing projects); (2) Pinellas County--ACTION Fund (low interest home rehabilitation loans with lower closing costs and flexible underwriting criteria for low- and moderate-income families); (3) Dade County--Homes for South Florida (financing for affordable housing developments in South Florida); (4) Orange County--Central Florida Community Reinvestment Corporation (loan pool for financing low- to moderate-income housing, including single family homes, apartments and condominiums); and (5) Sarasota County--Downtown Venice Association (redevelopment loans to small businesses in downtown Venice).[74]

C&S-FL has taken steps to address specifically identified credit needs of its communities, including low- and moderate-income areas, through special programs. For example, C&S-FL has developed two special home improvement products targeted to low- and moderate-income areas. In addition, C&S-FL has created an Enterprise Banking Division to target the needs of small businesses. This division also coordinates other government funded programs in which the bank participates. C&S-FL's bank officers actively participate in various CDCs across the state, and the bank has participated in several consortiums designed to rehabilitate or provide affordable housing, including the Dunbar Industrial Action Development and the Southwest Florida Coalition for Affordable Housing.

**South Carolina.** NCNB-SC has implemented its CRA program through participation in a variety of programs, including: (1) extension of approximately $69 million in

---

74/ Some Protestants raised issues regarding NCNB-FL's branch closing policies. NCNB-FL has established a written policy that provides guidelines for opening and closing branches, taking into consideration the impact on low- and moderate-income neighborhoods and input from neighborhood leaders. In response to a comment regarding the closing of its branch in Sulphur Springs, Florida, NCNB explained that a fire in the building resulted in structural damage that was too extensive to economically rehabilitate. According to NCNB, customer records for this branch were transferred to a branch located within approximately one mile of the destroyed branch.

community development loans, mortgage loans and consumer loans; (2) participation in six public/private partnerships[75] and commitments of more than $1.8 million to fund programs, including the West Brandon Neighborhood in Greenville and the Residential Mortgage Pool in Spartanburg; (3) commitments of more than $897,000 to mortgage bond programs advancing affordability in local housing; (4) commitments of $39.1 million to the South Carolina Student Loan Corporation for the 1990-91 school year; (5) small business loans as a preferred lender designated by the Small Business Administration; and (6) contributions of more than $830,000 to not-for-profit organizations with emphasis on those that support housing, education, small business or economic development.

NCNB-SC offers to low- and moderate-income persons a variety of loan products and services through the bank and the affiliated NCNB Mortgage Corporation.[76] In addition, NCNB-SC's advertising program includes a marketing program targeted at low- and moderate-income neighborhoods. NCNB-SC participates in

---

75/ The primary focus of these private/public partnerships is to make affordable housing loans through a combination of bank financing and funds from private or public entities.

76/ In 1990, NCNB-SC and NCNB Mortgage Corporation made 159 housing-related loans totalling $3.5 million to persons of low- and moderate-income, representing 15.4 percent of all mortgage lending by these institutions in the state. NCNB-SC has also developed a special mortgage program to meet the credit needs of low- and moderate-income borrowers, including a program that provides for a lower downpayment and a more liberal debt/income ratio. In addition, NCNB-SC has a total of $55 million of consumer loans outstanding in low- and moderate-income communities.

a full array of community development and redevelopment programs, including government and private sector projects that promote economic revitalization and growth.[77]

C&S-SC also offers a variety of loan products designed to meet the needs of its communities. For example, C&S-SC has developed a home improvement program call "Homeline" that may be used to finance the alteration, repair, conversion, or modernization of an existing owner-occupied, single-family or duplex dwelling for lower-income individuals. In addition, C&S-SC is actively involved in community development programs.

**Tennessee.** Sovran-TN's CRA program includes a community reinvestment department to provide direct contact with members of the community, government officials, and community-based organizations in order to ascertain the credit needs of its communities.[78] Sovran-TN has organized a marketing program and also developed an extensive officer call program for all small business lending officers, with special emphasis on identifying the credit needs of businesses serving low- and moderate-income areas through products, services and employment. The board of directors of Sovran-TN participates in the formulation of CRA policies and reviewing the bank's performance.

---

77/ In 1990, NCNB-SC and NCNB Mortgage Corporation originated $7.4 million in FHA and VA home loans. In addition, NCNB-SC has $10.8 million in outstanding SBA loans and a total of $5.4 million in agricultural loans.

78/ The credit needs of Sovran-TN's communities are monitored by a CRA Steering Committee which, in turn, receives input from five regional CRA committees.

Sovran-TN actively supports partnerships with government and non-profit organizations involved in affordable housing and economic development. For example, in the Nashville area, Sovran-TN participates with a consortium of 10 banks in providing funding for the Metropolitan Development Housing Authority to build affordable housing and has committed $2.5 million to Affordable Housing of Nashville's revolving loan fund. Sovran-TN also supports the Chattanooga Neighborhoods Enterprise program for low- and moderate-income housing, and in the Memphis area, actively lends to the Facility Development Corporation for financing its affordable housing development program.

**District of Columbia.** Sovran-DC has activities to ascertain the credit needs of its communities[79/] and CRA performance is a regular consideration in its board of directors planning and review process. Sovran-DC's marketing programs, including advertisements targeted for low- and moderate-income areas, inform all segments of its communities on the financial products and services offered by the bank. These products include a variety of loans designed to meet the needs of small businesses and individuals.[80/]

---

79/ Sovran-DC identifies community credit needs through contacts made by bank officials with a variety of individuals, community groups, government representatives and private and non-profit developers. Sovran-DC has also formed a committee of local District of Columbia residents and community leaders to advise it on community needs.

80/ Sovran-DC has identified affordable housing and small business lending as primary credit needs in the community. With the District of Columbia Department of Housing and Community (continued...)

NCNB has also targeted $140 million over a 10-year period for community development lending in the District of Columbia market. This program envisions the offering of a variety of credit products, including flexible credit terms, flexible underwriting standards, and pooling of credit resources. NCNB intends to direct this program toward low- and moderate-income communities and other markets that have been historically underserved.

The Board notes that the District of Columbia Superintendent of Banking and Financial Institutions ("Superintendent"), is charged under the laws of the District to assess the impact of proposed acquisitions on the availability of credit to all segments of the community including low- and moderate-income areas, and to convey a recommendation to the Council of the District of Columbia ("Council") based on this assessment. In carrying out its responsibility to consider fully the Superintendent's recommendation, the Council held a public hearing in the District and received the CRA performance of Sovran-DC and the CRA performance plan of NCNB. Based on this review, the Council approved NCNB's acquisition of Sovran-DC.[81]

---

80/ (...continued)
Development, Sovran-DC has developed an affordable mortgage loan program that permits individuals with certain income levels to use government subsidies to purchase homes within the District of Columbia. Sovran-DC has committed $10 million to this program. In addition, Sovran-DC offers SBA loans and currently has a number of small business loans outstanding.

81/ The Superintendent noted a concern that lending decisions continue to be made locally following this acquisition, (continued...)

G. HMDA Data and Lending Practices

The Board has reviewed the 1990 HMDA data reported by NCNB and C&S/Sovran. Recent amendments to the HMDA for the first time require banking organizations to collect certain information regarding applicants for bank mortgage loans and to report the information regarding both loan approvals and denials to the banking agencies and the public. The information includes data on the race, gender and income of individual applicants, in addition to the location of the property securing the potential loan and the disposition of the application.

NCNB's 1990 HMDA data show rates for housing loan approvals and denials that vary for different groups when compared by income levels or by race or national origin. As a general matter, NCNB's housing-related loan denial rates were greater for minority loan applicants as compared to non-minority applicants in a substantial number of NCNB's service communities. On the basis of these data, several Protestants have alleged illegal discriminatory lending practices by NCNB and

---

81/ (...continued)
and that Sovran-DC's management reflect a representation of local interests. NCNB stated in hearings held by the District of Columbia government that lending decisions up to Sovran-DC's authorized lending limit of $50 million will be made locally. In addition, NCNB's senior management is currently evaluating potential local candidates for corporate-level as well bank-level (including Sovran-DC) boards of directors. NCNB also intends to maintain a citizens advisory body comparable to Sovran-DC's current citizens advisory board.

C&S/Sovran.[82/] In addition, several Protestants contend that these data demonstrated areas of weakness in the loan penetration by these institutions in low- and moderate-income neighborhoods.

All banks have an obligation to ensure that their lending practices are based on criteria that assure safe and sound lending and equal access to credit for creditworthy applicants regardless of gender, race or national origin. The Board is concerned when the lending record of an institution indicates disparities in lending to minority applicants. The Board also recognizes that HMDA data provide only a limited measure of any given institution's lending in the communities served, and that HMDA data have limitations that provide an inadequate basis, absent other information, for determining whether an institution has engaged in illegal discrimination on the basis of gender, race or national origin.

The most recent examinations for CRA compliance conducted by bank supervisory agencies found no evidence of illegal discrimination or other illegal credit practices in any subsidiary banks of NCNB or C&S/Sovran. In the case of NCNB's seven subsidiary national banks, the OCC reviewed and sampled loan documentation for loans granted as well as loans denied in light of the 1990 HMDA data.

---

82/ Protestants allegations of illegal discrimination concern NCNB and C&S/Sovran HMDA data for particular communities in various states, including North Carolina, South Carolina, Texas, Florida, Virginia, and Georgia.

NCNB has also taken steps designed to improve its lending to minorities and low- and moderate-income neighborhoods. For example, NationsBank and Association of Community Organizations for Reform Now ("ACORN") have agreed to establish a program to provide loans, counseling, consumer education, and housing opportunities to low- and moderate-income and minority communities. Under this program, ACORN will have special loan counseling offices for low- and moderate-income home buyers in Texas and Washington, D.C. Participants will receive loan counseling, attend budgeting and homeownership workshops, and qualify to obtain mortgage interest rates one point below market. In addition, loan approval standards will assess the creditworthiness of low- and moderate-income home buyers under criteria which include: (1) alternate sources of income such as part-time jobs, self-employment and voluntary child support; (2) credit histories of paying rent and utilities; and (3) third-party contributions toward settlement costs and downpayments.

NCNB currently participates in a variety of local community credit counseling programs and proposes to expand those activities through the development of programs that will coordinate and expand upon the counseling efforts of local organizations. NCNB also states that NationsBank will recognize participation in credit counseling programs as an offset for weakness in a loan applicant's credit history.

NationsBank Community Investment Program also contains a $10-billion, 10-year commitment to community-development lending in the banking markets served by NationsBank. Loans made under this program will be made for the purpose of extending credit to economically underserved areas, low- and moderate-income consumers, and small businesses. NCNB has stated that the $10 billion lending target is structured as a minimum, and there will be no limit on the level of funds to be lent in any community or region. Lending areas to be targeted under the program include single-family residential mortgage, home improvement, combination rehabilitation/mortgage financing, and multi-family affordable housing; small business emphasizing the needs of minority-owned small businesses and agriculture/rural markets; and general consumer lending. As part of this program, NationsBank intends to utilize flexible credit terms and flexible underwriting standards.

Several commenters requested that a mechanism be established to ensure effective monitoring of the proposed NationsBank CRA program and lending goal. In particular, some commenters stated that NCNB should be required to incorporate input from members of the communities to be served by NationsBank in the decision-making process for allocating the $10 billion, 10-year lending goal and recommended that this goal be monitored by a community-based task force in addition to regulatory oversight.

The NationsBank Community Investment Program contains elements designed to assess and monitor the local impact of the lending target. NCNB intends to assure the local impact of the lending goal through a combination of the NationsBank corporate goals, local community goals to be established based on local needs assessment analyses, the concept of neighborhood targeting, and the incorporation of ideas solicited from the local community.

In each local community, NationsBank will define a neighborhood or geographic region within its community delineation to receive concentrated emphasis in the delivery of the NationsBank Community Development Program. The targeting of "NationsBank Neighborhoods" will supplement the NationsBank local community goals and initiatives. Progress in the targeted neighborhoods will be specifically monitored in addition to NCNB's local, state, and national performance measurement.[83/] NCNB states that it will monitor its performance in meeting the lending target through internal geocoding systems. Performance results will be published as part of local CRA Statements, at the county and MSA levels, no less than annually, and will be reviewed quarterly for internal purposes. The availability of results will be announced publicly and a breakdown by loan type will be provided. In addition, performance reports will be made a part of the NationsBank quarterly and annual reports.

These mechanisms established by NCNB are designed to assure local input and accountability in carrying out this

---

83/ NCNB states that performance oversight will be the responsibility of the NationsBank boards of directors CRA committees, the state CRA management committees, the president of the bank, the principal community investment officer, and the community investment coordinators.

lending program, while leaving flexibility to respond to the different types and level of credit needs in different communities. The efforts by NationsBank to implement this program will be monitored by the federal banking agencies through the examination process and will be taken into account in future applications by NationsBank to expand its deposit-taking facilities.

H. Conclusion Regarding Convenience and Needs Factors

In considering the overall CRA performance records of NCNB and C&S/Sovran and the effect of the proposal on the convenience and needs of the communities served by these institutions, the Board has carefully considered the entire record, including the substantial public comment in this case. The Board notes that a number of commenters raised both specific and general concerns about the adequacy of existing CRA programs in certain areas. Other commenters indicated that these programs were very productive in their community and expected that the proposed merger would add financial strength to these existing programs. Based on a review of the entire record of performance, including information provided by the commenters, the Board believes that the efforts made by NCNB and C&S/Sovran to meet the credit needs of all segments of the communities served by these banks, including low- and moderate-income neighborhoods, are substantial and, on balance, satisfactory. This conclusion is confirmed by the most recent CRA-examination reports for the subsidiary banks of NCNB and C&S/Sovran.

The Board recognizes, however, that there are areas of weakness in the CRA programs established by NCNB and C&S/Sovran. As indicated in its $10 billion lending program, NationsBank will expand existing programs and implement other initiatives targeting affordable housing, some of which have been discussed in this Statement, to improve the lending patterns reflected in the 1990 HMDA data. These initiatives -- in the areas of innovative product development, proactive consumer education and counseling, branch development, targeted marketing, and participation in public/private partnerships and non-traditional ways of serving low-income and minority credit needs -- are designed to increase housing-related and other types of credit by geographic area and among demographic sectors of the communities served by these institutions.

The Board believes that these initiatives, and other steps proposed by NCNB, will help NationsBank to draw on the corporate programs and existing CRA initiatives of NCNB and C&S/Sovran and to address weaknesses in the CRA performance record of NCNB and C&S/Sovran that have been described by commenters and in the examination process.

In this light, after carefully considering all the facts of record, including the testimony at the public meetings and the comments received and relevant examination reports, the Board concludes that, on balance, the convenience and needs considerations, including the CRA records of performance of NCNB and C&S/Sovran, are consistent with approval of these applications. The Board expects NCNB to implement fully its CRA initiatives announced for NationsBank and to continue to improve its CRA performance, including its housing-related lending, and to implement immediately steps to address areas for improvement noted in its CRA performance examinations. The Board will consider the progress made in these areas in future applications by NationsBank.[84/]

Acquisition of Nonbanking Companies

NCNB has applied under section 4(c)(8) of the BHC Act to acquire the nonbanking subsidiaries of C&S/Sovran. The Board has determined by regulation or order that each of the activities of these companies is closely related to banking and generally permissible for bank holding companies under section 4(c)(8) of the BHC Act, and has approved applications by C&S/Sovran to own

---

84/ Several Protestants have requested that the Board hold a formal public evidentiary hearing on the application. Generally, under the Board's rules, the Board may, in its discretion, hold a public hearing or meeting on an application to clarify factual issues related to the application and to provide an opportunity for testimony, if appropriate. 12 U.S.C. §§ 263.3(e) and 262.25(d).

The Board has carefully considered requests for a formal public hearing in this case. The Board has provided an extended period for public comment in this case, permitting interested persons a substantial period to provide written comments, and commenters have submitted substantial written and oral comments that have been considered by the Board. The Board also notes that it held four public meetings on this application. The Protestants requesting a formal public evidentiary hearing have indicated general disagreement regarding the appropriate conclusions to be drawn from the facts of record, but have not identified facts that are material to the Board's decision and that are in dispute. In light of this, the Board has determined that a public hearing is not necessary to clarify the factual record in these applications, or otherwise warranted in this case. Accordingly, these requests for a formal public hearing on this application are hereby denied.

shares in each of these companies.[85/] NCNB has committed to abide by all of the parameters, conditions and commitments relied on by the Board in the relevant orders and regulations regarding these companies.

NCNB operates subsidiaries engaged in nonbanking activities that compete with many of the nonbanking subsidiaries of C&S/Sovran. In each case, the markets for these nonbanking services are unconcentrated and there are numerous providers of these services. In light of these facts and the shares of each of these markets controlled by NCNB and C&S/Sovran, the Board concludes that consummation of this proposal would not have a significantly adverse effect on competition for these services in any relevant market.

There is no evidence in the record to indicate that approval of the proposed acquisition of shares of any of the nonbanking companies of C&S/Sovran, within the parameters, conditions and commitments relied on by the Board in its orders governing these companies, would result in any significantly adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices that are not outweighed by public benefits. Accordingly, the Board has determined that the balance of public interest factors that the Board must consider under

---

85/ The Board previously approved the acquisition by C&S/Sovran of C&S and Sovran and all of the banking and nonbanking subsidiaries of both C&S and Sovran. C&S/Sovran Corporation/Avantor Financial Corporation, 76 Federal Reserve Bulletin 779 (1990).

section 4(c)(8) of the BHC Act is favorable and consistent with approval.[86]

Insurance Agency Subsidiaries

NCNB has also requested Board approval to permit Citizens and Southern Insurance Services, Inc., C&S/Sovran Insurance Services, Inc., and Sovran Insurance Inc., (the "Insurance Subsidiaries") to continue, following acquisition of these companies by NCNB, to conduct insurance agency activities pursuant to section 4(c)(8)(D) of the BHC Act ("Exemption D").[87] The Board has previously determined that

---

[86] NCNB has also applied to merge its securities subsidiary, NCNB Capital Markets, Inc., with C&S/Sovran's securities subsidiary, Sovran Investment Corporation, under the name NationsBank Capital Markets, Inc. ("NCMI"). NCNB Capital Markets, Inc., and Sovran Investment Corporation engage in substantially the same securities activities, including limited securities underwriting and dealing activities. See NCNB Corporation, 75 Federal Reserve Bulletin 520 (1989); NCNB Corporation, 76 Federal Reserve Bulletin 864 (1990); Sovran Financial Corporation, 76 Federal Reserve Bulletin 256 and 857 (1990). NCNB has committed that the activities of NCMI will be conducted pursuant to the commitments made by NCNB and Sovran as well as the conditions and limitations imposed by the Board in the Orders approving these activities.

[87] 12 U.S.C. § 1843(c)(8)(D). Exemption D permits a bank holding company to engage in "any insurance activity which was engaged in by the bank holding company or any of its subsidiaries on May 1, 1982." Such activities may be conducted in the grandfathered company's home state, states adjacent thereto, or any state where the company was authorized to operate an insurance business before the grandfather date. The Board has previously determined that an insurance agency which is entitled to continue to sell insurance under Exemption D does not lose its grandfathered rights if the agency is acquired by another bank holding company, provided the agency maintains its separate corporate structure and its insurance activities are not extended to other subsidiaries within the acquiror's organization. Sovran Financial Corporation, 73 Federal Reserve Bulletin 672 (1987) ("Sovran"). This determination has been upheld by the courts.

(continued...)

the Insurance Subsidiaries were entitled to the privileges of Exemption D after their acquisition by C&S/Sovran.[88/] The Insurance Subsidiaries will remain separate subsidiaries of NationsBank, and the grandfathered insurance activities of the Insurance Subsidiaries will not be conducted by any of NationsBank's other subsidiaries. For the reasons stated in the Board's previous orders regarding the Insurance Subsidiaries and in the Board's Sovran decision, the Board has determined that the Insurance Subsidiaries may continue to engage in insurance activities pursuant to Exemption D following the acquisition of these subsidiaries by NCNB.[89/]

Export Trading and Edge Act Companies

The Board has also considered NCNB's proposal to acquire Commerce Trading Corporation pursuant to section 4(c)(14) of the BHC Act (12 U.S.C. § 1843(c)(14)), and to acquire

---

87/ (...continued)
National Ass'n of Casualty and Surety Agents v. Board of Governors, 856 F.2d 282, reh'g denied en banc, 862 F.2d 351 (D.C. Cir. 1988), cert. denied, 490 U.S. 1090 (1989).

88/ See C&S/Sovran Corporation, 76 Federal Reserve Bulletin 853 (1990). C&S/Sovran Insurance Services, Inc., was known at that time as "Sovran Insurance Agency, Inc."

89/ Pursuant to Exemption D, the insurance agency activities of Citizens and Southern Insurance Services, Inc., may be conducted only in Georgia, states adjacent to Georgia, or states in which this company lawfully engaged in insurance activities on May 1, 1982; the insurance agency activities of Sovran Insurance, Inc., may be conducted only in Maryland, states adjacent to Maryland, and states in which this company lawfully engaged in insurance activities on May 1, 1982; and the insurance agency activities of C&S/Sovran Insurance Services, Inc., may be conducted only in Virginia, states adjacent to Virginia, or states in which this company lawfully engaged in insurance activities on May 1, 1982.

indirectly the shares of Citizens and Southern International Bank and Citizens and Southern International Bank of Atlanta under the Edge Act. After consideration of all the factors specified in the Board's Regulation K and based on all of the facts of record, the Board has determined that disapproval of these proposed investments is not warranted.

Conclusion

Based on all of the facts of record, including the commitments made by NCNB in this case, and for the reasons discussed in this Statement, the Board has determined that the applications should be, and hereby are, approved. As noted in the Board's Order in this case, the Board's approval is expressly conditioned upon compliance with the commitments made by NCNB in connection with these applications, including the commitments to divest certain bank offices, and the commitments and initiatives relating to its performance under the Community Reinvestment Act. The determination as to the nonbanking activities approved in this case is also subject to all of the conditions contained in Regulation Y, including those in sections 225.4(d) and 225.23(b)(3) (12 C.F.R. 225.4(d) and 225.23(b)(3)), and to the Board's authority to require such notification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with, or to prevent evasion of, the provisions and purposes of the BHC Act and the Board's regulations and orders issued thereunder. All of the commitments and conditions relied on by the Board in reaching its decision in this case are conditions imposed in writing by the Board in connection with its findings and decision and may be enforced under applicable laws.

December 4, 1991

Jennifer J. Johnson

Jennifer J. Johnson
Associate Secretary of the Board

## Appendix

Deposit information for states in which NCNB and C&S/Sovran compete. Deposit data are as of June 30, 1991.

1. Virginia

NCNB is the 139th largest depository organization in Virginia, holding $7.2 million in deposits, representing less than one percent of the total deposits in commercial banking organizations in the state. C&S/Sovran is the largest depository organization in Virginia, holding $11.4 billion in deposits, representing approximately 20.8 percent of the total deposits in commercial banking organizations in the state. Upon consummation of this proposal, NationsBank would be the largest depository organization in Virginia, with deposits of $11.4 billion, representing approximately 21 percent of state deposits.

2. Georgia

NCNB is the 83rd largest depository organization in Georgia, holding $69 million in deposits, representing less than one percent of the total deposits in commercial banking organizations in the state. C&S/Sovran is the largest depository organization in Georgia, holding $9.2 billion in deposits, representing approximately 18.1 percent of the total deposits in commercial banking organizations in the state. Upon consummation of this proposal, NationsBank would be the largest depository organization in Georgia, with deposits of $9.3 billion, representing approximately 18.2 percent of state deposits.

3. Florida

NCNB is the 4th largest depository organization in Florida, holding $10 billion in deposits, representing approximately 8.6 percent of the total deposits in commercial banking organizations in the state. C&S/Sovran is the 6th largest depository organization in Florida, holding $6.1 billion in deposits, representing approximately 5.2 percent of the total deposits in commercial banking organizations in the state. Upon consummation of this proposal, NationsBank would be the 2nd largest depository organization in Florida, with deposits of $16.1 billion, representing approximately 14.0 percent of state deposits.

4. Maryland

NCNB is the 21st largest depository organization in Maryland, holding $284.8 million in deposits, representing less than one percent of the total deposits in commercial banking organizations in the state. C&S/Sovran is the 4th largest depository organization in Maryland, holding $3.5 billion in deposits, representing approximately 8 percent of the total deposits in commercial banking organizations in the state. Upon consummation of this proposal, NationsBank would be the fourth largest depository organization in Maryland, holding deposits of $3.8 billion, representing approximately 8.7 percent of state deposits.

5. South Carolina

NCNB is the third largest depository organization in South Carolina, holding $2.4 billion in deposits, representing approximately 12.4 percent of the total deposits in commercial banking organizations in the state. C&S/Sovran is the second largest depository organization in South Carolina, with $2.9 billion in deposits, representing approximately 15.6 percent of the total deposits in commercial banking organizations in the state. Upon consummation of this proposal, NationsBank would be the second largest depository organization in South Carolina, with deposits of $5.3 billion, representing approximately 28 percent of total deposits in commercial banking organizations in South Carolina.