Minutes for May 3, 1962

To: Members of the Board

From: Office of the Secretary

Attached is a copy of the minutes of the Board of Governors of the Federal Reserve System on the above date.

It is not proposed to include a statement with respect to any of the entries in this set of minutes in the record of policy actions required to be maintained pursuant to section 10 of the Federal Reserve Act.

Should you have any question with regard to the minutes, it will be appreciated if you will advise the Secretary's Office. Otherwise, please initial below. If you were present at the meeting, your initials will indicate approval of the minutes. If you were not present, your initials will indicate only that you have seen the minutes.

Chm. Martin

Gov. Mills

Gov. Robertson

Gov. Balderston

Gov. Shepardson

Gov. King

Gov. Mitchell

Minutes of the Board of Governors of the Federal Reserve System on Thursday, May 3, 1962. The Board met in the Board Room at 10:00 a.m.

PRESENT: Mr. Martin, Chairman
Mr. Balderston, Vice Chairman
Mr. Mills
Mr. Robertson
Mr. Shepardson

Mr. Sherman, Secretary
Mr. Kenyon, Assistant Secretary
Mr. Molony, Assistant to the Board
Mr. Hackley, General Counsel
Mr. Farrell, Director, Division of Bank Operations
Mr. Solomon, Director, Division of Examinations
Mr. Hexter, Assistant General Counsel
Mr. O'Connell, Assistant General Counsel
Mr. Hooff, Assistant General Counsel
Mr. Benner, Assistant Director, Division of Examinations
Mr. Thompson, Assistant Director, Division of Examinations
Mrs. Semia, Technical Assistant, Office of the Secretary
Mr. Potter, Senior Attorney, Legal Division
Mr. Lyon, Review Examiner, Division of Examinations
Mr. Poundstone, Review Examiner, Division of Examinations

Continental Bank matter. Mr. O'Connell reported that the United States Court of Appeals for the District of Columbia had affirmed the District Court's dismissal of the complaint against the Board by Continental Bank and Trust Company, Salt Lake City, Utah, in connection with the capital adequacy proceeding involving that bank. Presumably, the bank might next seek a writ of certiorari from the United States Supreme Court. If that were denied,

the Board could proceed with its show cause hearing, which had been held in abeyance pending the decision by the Court of Appeals. Mr. O'Connell added that he did not know at this time whether or not the Court of Appeals had issued an opinion with its ruling.

Granting of general consent to Edge financing corporation (Item No. 1). There had been distributed a draft of letter to Bankers International Financing Company, Inc., New York, New York, granting general consent to the purchase and holding of stock in generally designated types of corporations, subject to restrictions similar to those that had been imposed in the several other cases in which the Board had granted a general consent.

Following a brief discussion, the letter was approved unanimously. A copy is attached as Item No. 1.

Mr. Poundstone then withdrew from the meeting.

United Security Account Plan (Item No. 2). Over a period of many months the Board had given consideration to the United Security Account Plan offered by Citizens Bank and Trust Company, Park Ridge (Chicago), Illinois, which in effect permitted withdrawals by the bank from savings accounts in payment of checks, a principle prohibited by section 217.1(e)(3) of the Board's Regulation Q, Payment of Interest on Deposits, as amended January 15, 1962. At its meeting on April 23, 1962, the Board discussed various possible courses of action and considered drafts of letters that had been submitted. The Federal Reserve Bank of Chicago had begun a special examination of

Citizens Bank and Trust Company on February 26, 1962. However, at the time, principally because of operating difficulties arising from a change in accounting systems, and the breakdown of the bank's electronic accounting equipment, the bank had not taken any action since January 15, 1962, to carry out instructions from United Security Account holders for withdrawals from savings accounts to cover "loans" created by the issuance of checks. Therefore, the Reserve Bank planned to make a supplementary investigation of the savings department of Citizens Bank at a later date. At the conclusion of the discussion at the April 23 meeting the Board agreed that, since the Chicago Reserve Bank had begun its supplementary investigation the preceding week, the matter would be considered further following receipt of the report of that investigation.

There had now been distributed a memorandum dated April 27, 1962, from the Legal Division, which indicated that the report of the Chicago Reserve Bank's further investigation had been received. The report stated that, as of April 14, "adjustments to the United Security Accounts had been made which included withdrawals aggregating $924,847.45 from accounts considered by the bank to be savings deposits, and the proceeds of the withdrawals were used to retire an equal amount of credit extended by the bank in payment of checks and the service charges thereon." The Reserve Bank's examiner had expressed the view to the bank's officers that operation of the plan, in addition to involving apparent violations of the law and Regulation Q, seemed

questionable as a matter of sound banking practice, particularly from an economic standpoint. The bank's president reportedly had stated to the examiner that certain pressures made it impossible for any officer present at the conference with the examiner to discontinue the plan, but that it had already been decided that mail solicitation would be discontinued and new accounts obtained only from past solicitation. However, the examiner's report indicated that a large mailing had been completed recently and a large volume of new account activity appeared to be in process. The president of Citizens Bank had requested that the bank be advised by letter of the findings of the investigation, and stated that comments pertaining to the unprofitability of the plan would be helpful.

Attached to the memorandum was a revised draft of letter to Citizens Bank. The new draft included a paragraph stating that the Board expected the bank to (1) discontinue operation of the plan and (2) notify all United Security Account customers that, after a specified date (allowing reasonable time), indebtedness to the bank incurred by the drawing of checks against such accounts would no longer be liquidated by the withdrawal of funds from the accounts. It was noted in the memorandum that the draft letter did not include comments with respect to the uneconomic aspects of the plan because it was believed that a letter from the Reserve Bank covering that point would be more appropriate.

During discussion, Governor Shepardson called attention to a statement in the memorandum that the draft letter was not in the form usually used as the first step in a possible membership proceeding.

Mr. Hooff responded that a letter that was expected to lead to a membership proceeding would be more formal, with references to the pertinent statutes included. The less formal approach used in the draft letter was suggested because it was hoped that such a letter would be sufficient to cause the bank to discontinue its United Security Account plan. Some basis for that hope was to be found in the indications that the plan would prove to be unprofitable and that certain officers of the bank would like to see the plan discontinued.

After further discussion, the letter was approved unanimously, subject to agreement being reached by Messrs. Molony and Hooff on the wording of one particular passage. A copy of the letter, as sent, is attached as Item No. 2.

Messrs. Molony, Farrell, Hexter, Hooff, and Benner then withdrew from the meeting.

Application of Morgan New York State Corporation (Items 3, 4, and 5). There had been distributed a draft of statement reflecting the unanimous decision reached by the Board on April 5, 1962, to deny the application of Morgan New York State Corporation to become a bank holding company through the acquisition of all of the voting shares of Morgan Guaranty Trust Company of New York and of six banks located in upstate New York.

Mr. O'Connell commented that in drafting the statement the Legal Division had tried to develop as comprehensively as possible the considerations that had entered into the Board's decision, relating them to the factual situation reflected by the record of the case. As indicated by a reading of the portions of the statement dealing with the first four statutory factors, considerations pertaining thereto might seem to lean as much toward approval as disapproval. Hence, it was necessary to show that adverse considerations under the fifth factor--relating to whether the size and extent of the proposed holding company would be consistent with adequate and sound banking, the public interest, and the preservation of competition--carried conclusive weight. In this connection, the Division had endeavored to cause the statement to reflect the apparent philosophy of the Congress, as expressed in the legislative history of the Bank Holding Company Act. The Legal Division agreed that the philosophy of the Congress, as so expressed, suggested strongly the decision that the Board had reached. However, the relationship had to be developed against the background of the factual record of this case.

Messrs. O'Connell and Hackley expressed the hope that the Board, if it considered the statement generally satisfactory, would agree to deferral of the release of the order and statement until tomorrow afternoon in order to permit a final check for factual accuracy and an opportunity to accommodate such changes as the Board might desire.

There was general agreement with the suggested timing of public release.

During the ensuing discussion a number of suggestions were made for minor changes in wording in various parts of the statement for the purpose of clarification or emphasis. One point to which attention was given was the question whether the Board's action should be predicated more on the degree of banking concentration that would immediately result if the application were approved, or on the potential danger of undue banking concentration. The views stated on this point revealed some conceptual variations, Governor Mills expressing the view that there was inherent in the current proposal, per se, an undue concentration in the immediate sense, while Chairman Martin indicated that his thinking was directed more to the potential influence of the formation of the holding company in terms of a trend toward undue concentration. Mr. Hackley then suggested certain revisions of one portion of the statement that might be helpful in resolving this difficulty, and all of the members of the Board indicated that they would favor the suggested language.

There was also general agreement with a suggestion that there be inserted in the statement language bringing out that the Board's conclusion was not based on a belief that the economic power of the proposed holding company would be abused or improperly exercised; that instead the conclusion reflected a belief that

approval of the application would be inconsistent with the intent of Congress, as reflected in the fifth statutory factor.

After further discussion, the issuance of the statement reflecting the Board's decision in regard to the application of Morgan New York State Corporation was authorized, for release tomorrow, along with an order in the usual form, with the understanding that the Legal Division would make the changes in the statement agreed upon at this meeting and also any minor editorial changes that might seem necessary. Copies of the order and statement, as subsequently issued on May 4, 1962, are attached as Items 3 and 4.

There was also a discussion of the possible desirability of preparing a press statement in somewhat more comprehensive form than usual. However, after consideration of views expressed by the Legal Division in this regard, it was agreed that the press release covering the order and statement should be prepared in the usual form.

Secretary's Note: A copy of a concurring statement by Governor Mitchell, released on May 8, 1962, is attached as Item No. 5.

The meeting then adjourned.

Secretary's Note: Governor Shepardson today approved on behalf of the Board the following items:

Letter to the Federal Reserve Bank of Philadelphia (attached Item No. 6) approving the appointment of John P. Lamond as assistant examiner.

Letter to the Federal Reserve Bank of Atlanta (attached Item No. 7) approving the designation of Alton Donald Sands as special assistant examiner.

Secretary

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON 25, D. C.

Item No. 1
5/3/62

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

May 3, 1962.

Bankers International Financing
Company, Inc.,
16 Wall Street,
New York 15, New York.

Gentlemen:

Consideration has been given by the Board of Governors to the request contained in your letters of January 30, and April 12, 1962, for the Board's general consent to Bankers International Financing Company, Inc. ("BIFC") to purchase and hold stock in generally designated types of corporations.

On the basis of the information furnished as to investment policies to be pursued by BIFC, the Board grants its general consent, for the purposes of the first sentence of Section 211.9(c) of Regulation K, to BIFC to purchase and to hold shares of stock of any foreign corporation, provided the aggregate investment in any one foreign corporation and its subsidiaries (on a combined basis) shall not exceed 5 per cent of the capital and surplus of BIFC, subject to the following conditions:

(1) This authorization shall be applicable only to investments made on or before December 31, 1962. Options to acquire stocks subsequent to the termination date (December 31, 1962) of the general consent may not be exercised unless specifically approved by the Board or permitted under a then effective general consent.

(2) The Board of Governors shall be informed promptly in writing, through the Federal Reserve Bank of New York, when any such investment is made, together with pertinent details regarding such investments, and the Board of Governors shall be furnished within thirty days after acquisition: (a) a balance sheet of the corporation whose stock has been acquired, showing the financial position of the corporation as of a recent date, together

with an income statement for the preceding fiscal period; (b) a brief description of the business of the corporation; (c) a list of officers and directors, with addresses and principal business affiliations; (d) a description of the stock acquired; (e) information concerning the rights and privileges of the various classes of stock of the corporation outstanding; (f) a list of all stockholders holding 5 per cent or more of any class of stock of such corporation and their holdings; and (g) a brief description of any loan or credit transaction with the corporation in connection with which the stock was acquired. If, upon review of such information, the Board of Governors determines that an investment is contrary to the investment program of BIFC as submitted to the Board in your letters of January 30 and April 12, 1962, or is otherwise objectionable to the Board of Governors, BIFC shall take the necessary steps to divest itself of such investment, upon notice to that effect and within such time as the Board may specify.

(3) Investments by BIFC under this general consent shall be made in accordance with sound financial policies, including among others, (a) appropriate diversification of its loan and investment portfolios so as to avoid undue concentrations in loans to, and investments in, individual enterprises, industries, or otherwise, and (b) proper regard to the relationship between its assets and the maturities of its obligations.

(4) BIFC shall be expected to dispose of its holdings of stock of such foreign corporation, as promptly as practicable, in the event that such foreign corporation should at any time (a) engage in the business of issuing, underwriting, selling or distributing securities; (b) engage in the general business of buying or selling goods, wares, merchandise, or commodities in the United States or transact any business in the United States except such as is incidental to its international or foreign business; or (c) conduct its operations in a manner which, in the judgment of the Board of Governors, is inconsistent with Section 25(a) of the Federal Reserve Act or regulations thereunder.

(5) Such investments shall not be made in the shares of financial corporations or holding companies.

(6) The investment in any such foreign corporation shall not include more than 49 per cent of its voting shares or

otherwise enable BIFC to designate a majority of the foreign corporation's board of directors or similar management group.

(7) The aggregate equity investment (at cost) in foreign corporations engaged in the same business (i.e., the manufacture or mining of similar products or the carrying on of similar activities) shall not exceed 25 per cent of BIFC's capital and surplus.

(8) The aggregate equity investment in all foreign corporations doing business in any one country, colony, possession or dependency shall not exceed 25 per cent of BIFC's capital and surplus.

(9) Under this general consent, shares shall be acquired only from the issuer directly.

The right is reserved to terminate this general consent upon ninety days' written notice to BIFC.

As you know from the Board's letter of December 29, 1961, and Mr. Davies' reply of February 19, 1962, a comprehensive review is being made of Regulation K. Accordingly, with regard to the precentage limitations outlined in your letter of January 30, 1962, the Board feels that, pending the completion of the review for the purpose of considering whether any modifications are appropriate, it would be preferable to limit (1) the aggregate equity investment in any one foreign corporation to 5 per cent of capital and surplus of the Foreign Financing Corporation and (2) the aggregate equity investment in (a) foreign corporations engaged in the same business and (b) foreign corporations doing business in any one country, to 25 per cent each of the Foreign Financing Corporation's capital and surplus. Proposed investments in excess of 5 per cent of capital and surplus of BIFC may, of course, be submitted to the Board for individual consideration.

Very truly yours,

(Signed) Elizabeth L. Carmichael

Elizabeth L. Carmichael,
Assistant Secretary.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON 25, D. C.

Item No. 2
5/3/62

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

May 3, 1962

Board of Directors,
Citizens Bank & Trust Company,
Park Ridge, Illinois.

Gentlemen:

From correspondence, circulars, and other media utilized by your bank that have come to the attention of the Board of Governors over the past two years, the Board understands that your bank has been advertising widely an arrangement known as the "United Security Account" plan, whereby customers are given the privilege of drawing checks against your bank as an incident to the opening and maintenance of a savings account. This plan has been amended several times during the course of these two years, but the basic purpose appears to remain unchanged--namely, the development and use of a device to provide for the payment of interest on an account that is, in effect, subject to withdrawal by means of checks whenever the customer deems it expedient to do so.

Your bank has indicated that it does not desire to violate any laws or regulations. The recent examinations conducted by the Federal Reserve Bank of Chicago disclosed that your bank is still accepting and processing accounts on the basis of this plan, which is prohibited by section 217.1(e)(3) of Regulation Q. Accordingly, you are notified that the Board of Governors expects Citizens Bank & Trust Company to comply with this provision of the Regulation and to discontinue the operation of the above described United Security Account plan and to notify all customers party thereto that after a specified date, allowing reasonable time, indebtedness incurred by the drawing of checks against such accounts will no longer be liquidated by the withdrawal of funds therefrom.

Very truly yours,

(Signed) Merritt Sherman

Merritt Sherman,
Secretary.

UNITED STATES OF AMERICA

BEFORE THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Item No. 3
5/3/62

WASHINGTON, D. C.

In the Matter of the Application of

MORGAN NEW YORK STATE CORPORATION

for prior approval of the acquisition of 100 per cent of the voting shares of Morgan Guaranty Trust Company of New York and of six banking institutions in upstate New York.

ORDER DENYING APPLICATION
UNDER BANK HOLDING COMPANY ACT

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) and section 222.4(a)(1) of Federal Reserve Regulation Y (12 CFR 222.4(a)(1)), an application on behalf of Morgan New York State Corporation, Albany, New York, for the Board's prior approval of action whereby Morgan New York State Corporation would become a bank holding company through acquisition of 100 per cent of the voting shares of Morgan Guaranty Trust Company of New York; Manufacturers and Traders Trust Company, Buffalo; Lincoln Rochester Trust Company, Rochester; First Trust & Deposit Company, Syracuse; the State bank or trust company into which would be converted The National Commercial Bank and Trust Company of Albany; the State bank or trust company into which would be converted First-City National Bank

of Binghamton, N. Y.; and the State bank or trust company into which would be converted The Oneida National Bank and Trust Company of Central New York, Utica.

A Notice of Receipt of Application was published in the Federal Register on July 27, 1961 (26 Federal Register 6751), which provided an opportunity for submission of comments and views regarding the proposed acquisition; following receipt of comments and views, the Board ordered a public oral presentation of views which was conducted before the Board on December 7, 1961, and at which all persons requesting opportunity to appear, and did so appear, were heard and were given opportunity to submit further written expressions of views; and all comments and views received in the course of these proceedings have been considered by the Board. Accordingly,

IT IS ORDERED, for the reasons set forth in the Board's Statement of this date, that said application be and hereby is denied.

Dated at Washington, D. C., this 4th day of May, 1962.

By order of the Board of Governors.

Voting for this action: Unanimous, with all members present.

(Signed) Merritt Sherman

Merritt Sherman,
Secretary.

(SEAL)

Item No. 4
5/3/62

BOARD OF GOVERNORS

OF THE

FEDERAL RESERVE SYSTEM

APPLICATION OF MORGAN NEW YORK STATE CORPORATION, ALBANY, NEW YORK, FOR PERMISSION TO BECOME A BANK HOLDING COMPANY

STATEMENT

Nature of the proposal. - Morgan New York State Corporation, Albany, New York ("Applicant"), has filed an application with the Board of Governors pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 ("the Act"), for the Board's approval of proposed action whereby Applicant would become a bank holding company through the acquisition of all the voting shares of Morgan Guaranty Trust Company of New York and of the following six banks located in upstate New York: Manufacturers and Traders Trust Company, Buffalo; Lincoln Rochester Trust Company, Rochester; First Trust & Deposit Company, Syracuse; the State bank or trust company into which will be converted The National Commercial Bank and Trust Company of Albany; the State bank or trust company into which will be converted the First-City National Bank of Binghamton, N. Y; and the State bank or trust company into which will be converted The Oneida National Bank and Trust Company of Central New York, Utica. For convenience, the seven banks involved, individually and as a group, are referred to at times as "Bank" and "Banks", respectively. The terms "District" or "Districts", sometimes used herein, refer to one or more of the nine Banking Districts into which the State of New York is divided under State law.

Applicant's proposal contemplates obtaining this Board's approval of the aforementioned acquisitions (approval of the same by the New York State Banking Board was granted on September 29, 1961), following which the three proposed subsidiaries that are presently national banks, with the approval of their stockholders and the New York Superintendent of Banks, will be converted into State banks or trust companies. Thereafter, Applicant and the seven Banks would enter into a Plan of Acquisition whereby, following approval by two-thirds of the stockholders of the respective banks and by the State Banking Board, Applicant would issue 24,203,172 shares of its stock in exchange for the shares of the seven Banks, except for shares of any dissenting stockholders. Dissenting stockholders, as provided in the Plan of Acquisition and in the Banking Law of the State of New York, would be paid off in cash. Assuming the aforementioned transactions, Applicant would then own all of the voting shares of the seven Banks, other than Directors' qualifying shares.

History of the proceeding. - Pursuant to the provisions of section 3(b) of the Act, the Board requested of the New York State Superintendent of Banks his views and recommendations on the application in relation to the factors that the Board must consider as set forth in section 3(c) of the Act. Although not required by the Act to request the views and recommendations of the Comptroller of the Currency (none of the Banks whose voting shares would be acquired by Applicant would be national banks), the Board invited an expression of views by the Comptroller inasmuch as three of the Banks involved are presently national banks. By letter dated July 28, 1961, the Superintendent of Banks advised that,

simultaneous with its filing of this application, Applicant also had filed with the New York State Banking Board, pursuant to Article III-A of the New York Banking Laws, an application for approval involving the same proposal. The Superintendent expressed the view that any comment by him on the application before the Board of Governors would be inappropriate inasmuch as he was required by State law to make a recommendation to the Banking Board on the application pending before it. Thereafter, the Superintendent recommended favorably to the Banking Board on the application and on September 29, 1961, the Banking Board approved the same. The Comptroller of the Currency advised the Board of Governors by letter dated August 24, 1961, that "Under the circumstances of this particular case, we have concluded that we shall offer no objection to the proposed transaction."

By Order dated October 9, 1961, published in the Federal Register on October 14, 1961, the Board scheduled a public oral presentation of views on the application. In the course of these proceedings, conducted on December 7, 1961, all persons who requested the opportunity to appear, and did so appear, were heard and were given an opportunity to submit further written expressions within 15 days of their oral presentations. Such written statements as were submitted, including Applicant's Closing Memorandum on Reasons for Approval of the Application, and Rebuttal on Behalf of Independent Bankers Association, et al., were received and considered by the Board. By letter dated January 22, 1962, the Comptroller of the Currency expressed the view, contrary to the August 24, 1961 recommendation of his predecessor in office, that Applicant's proposal should

not be approved. This letter and a reply thereto dated January 29, 1962, filed on Applicant's behalf, were made part of the record of this matter and have been considered by the Board.

Statutory factors. - In determining whether or not to approve this application, the Board is required by section 3(c) of the Act to consider the following factors: (1) the financial history and condition of the proposed holding company and the banks concerned; (2) their prospects; (3) the character of their management; (4) the convenience, needs, and welfare of the communities and the areas concerned; and (5) whether or not the effect of such acquisition or merger or consolidation would be to expand the size or extent of the bank holding company system involved beyond limits consistent with adequate and sound banking, the public interest, and the preservation of competition in the field of banking.

FINANCIAL HISTORY AND CONDITION, AND PROSPECTS

The first two of the statutory factors - the financial history and condition and the prospects of the Applicant and the Banks - are closely related and may appropriately be considered together. Hereinafter, unless otherwise indicated, data relating to banking offices are given as of June 30, 1961; data as to deposits and loans, and related data, are given as of December 31, 1960.

Applicant, incorporated in January 1961, has but a brief financial history. Its only asset consists of $100 cash paid for ten shares of its presently authorized 2,000 shares of common stock. If this application is approved, Applicant's principal assets will be stock of its subsidiary banks. Thus, Applicant's financial condition and prospects would parallel those of the banks it would own.

Morgan Guaranty Trust Company of New York ("Morgan Guaranty") was organized in 1864 as the New York Guaranty and Indemnity Company, the name being changed in 1895 to Guaranty Trust Company of New York. In 1959, J. P. Morgan & Co., Incorporated, was merged into the Guaranty Trust Company, the continuing institution changing its name to Morgan Guaranty Trust Company of New York. Morgan Guaranty is the fifth largest bank in New York City and in New York's Second Banking District, and the sixth largest bank in the nation. At December 31, 1960, Morgan Guaranty had resources of $4,245 million, held total deposits of $3,410 million, and had capital accounts totaling $551 million. It operates nine banking offices - five, including its head office, in New York City, and four foreign branch offices. It also has a New York City office at which its stock transfer division is located.

Manufacturers & Traders Trust Company ("M & T") was organized in 1892 as The Fidelity Trust and Guaranty Company of Buffalo; its present title was assumed in 1925. M & T operates 43 banking offices located in 21 communities and in five of the eight counties comprising the State's Ninth Banking District. Its main office and 18 branch offices are located in the City of Buffalo. M & T is the third largest bank and the second largest commercial bank in Buffalo, and the third largest bank in the Ninth Banking District. At December 31, 1960, it had resources of $507 million, total deposits of $452 million, and capital accounts of $49 million.

Lincoln Rochester Trust Company ("Lincoln Rochester") was organized in 1893 as the Alliance Bank; its present name was taken in 1945. Its main office and 25 branch offices are located in the Eighth Banking District. Ten offices, including the main office, are located in Rochester. In all, Lincoln Rochester offices are found in 15 communities and 5 of the 6 counties comprising the Eighth Banking District. These offices had, at December 31, 1960, total resources of $417 million, total deposits of $377 million, and total capital accounts of $32 million. Lincoln Rochester is the largest bank in Rochester and in the Eighth Banking District.

First Trust & Deposit Company ("First Trust") commenced business as the Trust and Deposit Company of Onondaga in 1869 and adopted its present title in 1919. Its main office, located in Syracuse, and 23 branch offices are located within the Sixth Banking District. It is the second largest bank and the largest commercial bank in both Syracuse and the Sixth Banking District. For purposes of this application, Applicant has divided the seven counties comprising the Sixth Banking District into a five-county area and a two-county area. First Trust's offices are located in four of the five counties comprising the former area. 14 of its branch offices are located in and around Syracuse, and its remaining nine offices are located elsewhere in the four counties. First Trust's 24 offices had, at December 31, 1960, resources of $196 million, total deposits of $183 million, and capital accounts of $10 million.

The National Commercial Bank and Trust Company of Albany ("National Commercial"), organized in 1825, has its main office in Albany, 10 branch offices in the Albany area, and 22 branch offices in other areas within the Fourth Banking District. It has offices in 25 communities and in 11 of the 15 counties comprising the Fourth Banking District, and is the second largest bank in that District and in the City of Albany. At December 31, 1960, the Bank had resources totaling $349 million, total deposits of $311 million, and capital accounts of $23 million.

First-City National Bank of Binghamton, N. Y. ("First-City National"), located in the Seventh Banking District, was founded in 1863. It has its main office in Binghamton, five branch offices in the Binghamton area, and two branch offices elsewhere in the District. First-City National is the second largest bank and the largest commercial bank in Binghamton, and the third largest bank and second largest commercial bank in the Seventh Banking District. At December 31, 1960, First-City National had resources of $97 million, held total deposits of $86 million, and had capital accounts of $8 million.

Oneida National Bank and Trust Company of Central New York ("Oneida National"), organized in 1836, is the third largest bank and second largest commercial bank in Utica, and the eighth largest bank in the Sixth Banking District. Oneida National's offices are all within two counties of the Sixth Banking District. Its main office is in Utica, four of its branch offices are in the Utica area, and eight branch offices are located elsewhere within the two counties. These two counties constitute

the two-county area of the Sixth Banking District earlier mentioned as having been designated by Applicant for purposes of this application. At December 31, 1960, Oneida National had resources of $126 million, total deposits of $112 million, and capital accounts of $11 million.

The evidence presented as to the financial condition of the proposed subsidiary banks supports the conclusion that each is in sound financial condition, that the financial history of each has been satisfactory, and that the prospects of each are favorable. However, in this connection, Applicant has laid considerable stress upon the projected economic growth within New York State and, more particularly, in the upstate areas involved in the application, and urges that a substantial increase in the amount of available bank credit will be an essential prerequisite to this growth. Then, relating the projected credit needs to the abilities of the upstate proposed subsidiary banks to meet these needs, Applicant concludes, and urges as a ground for approval of this application, that these Banks are and will be insufficiently capitalized to meet this demand for credit, and that Applicant's control of these Banks will remedy this problem. The question thus raised as to the projected credit needs of the communities concerned and as to the abilities of the Banks to meet these needs independent of the proposed affiliation with Applicant is discussed hereafter in connection with the Board's consideration of the fourth statutory factor. However, Applicant's contentions have a bearing on both the financial condition and prospects of Applicant and the Banks involved.

Applicant alleges that, on the basis of several approaches, including an application of the "Form for Analyzing Bank Capital", used by the Federal Reserve Banks and the Board, certain of the proposed subsidiaries are not as strongly capitalized as would be desirable or at least not sufficiently capitalized to meet future credit needs. While the New York Superintendent of Banks indicated that additional capital would be desirable for meeting future needs, he made it clear that under Departmental standards concerned with the present soundness of a given bank, the upstate Banks are not inadequately capitalized. The Board's consideration of the capital position of the proposed subsidiaries, including a review of the result shown by the "Form for Analyzing Bank Capital", with appropriate adjustments for factors not given effect fully in condition reports, indicates that the proposed upstate subsidiaries are not inadequately capitalized in relation to their current position. While it may well be that future conditions will require additional capital, past experience has shown an ability to obtain extra amounts of capital as they become necessary. Further analysis indicates that the capital position of the proposed subsidiary Banks compares favorably with the banks of the Marine Midland group with which Applicant's Banks would be in competition. It is the Board's judgment that the evidence supports the conclusion that none of the upstate Banks is at present inadequately capitalized and that, even with the future anticipated growth in their respective areas, each should be able to continue to provide adequate capital through its own respective efforts.

As to the prospects of the proposed subsidiary Banks, there is no evidence to support any conclusion other than that such prospects are satisfactory. Morgan Guaranty, the fifth largest bank in New York City and the sixth largest in the United States, has an impressive history of

qualified management and profitable operation. There is every reason to believe that the future will see a continuation of such operation. The operational and growth record of each of the six upstate Banks is similarly impressive and, while their respective prospects might possibly be somewhat more favorable were they to become subsidiaries of the Applicant, the Board is of the opinion that the prospects of each of the Banks, operating independently of the Applicant's control, are satisfactory.

MANAGEMENT

Applicant's management, composed almost entirely of individuals who are officers or directors of the proposed subsidiary banks, is experienced and well qualified. In view of Applicant's statement that the officers and directors of the Banks are expected to remain in office, the present sound condition of management in those Banks should continue if the proposal were consummated. However, equally sound management direction can be expected if the Banks should continue their independent operation. While not contending otherwise insofar as the immediate future is concerned, Applicant asserts the probability of management succession difficulties in relation to the upstate Banks and urges that such difficulties will be better resolved by Applicant than by the Banks individually. In particular, Applicant maintains that the task, normal to any bank, of recruiting and training well-qualified management personnel is increased in the case of the upstate Banks because of the limited opportunity to develop adequate training programs and to provide for specialized work experience - this for the reason that the volume of business is insufficient to permit specialized training in particular banking services. Alluding to the

fact that within the next five years each of the upstate Banks will have several persons of branch officer rank, or higher, reaching retirement age, Applicant asserts that it will be difficult for the Banks to train more than one prospective successor of an important incumbent, while the Applicant could train, develop, and qualify two or more successors for each of the respective positions.

It must be recognized that an organization such as Applicant's could in fact facilitate the selection, training, and advancement of management personnel within each of the Banks. However, the alternative whereby the Banks either would themselves develop such replacements as would be required, perhaps at a slower pace, or bring into their organizations personnel already trained, perhaps at higher cost, is not so formidable as to make necessary to the Banks' welfare the rejection of such alternative. The size and standing of each of the Banks in its respective area satisfy the Board that the Banks themselves, absent the proposed affiliation with Applicant, should be well able to meet satisfactorily whatever management succession and personnel replacement requirements are found necessary.

In summary, it is the Board's conclusion that, while the evidence relating to the first three statutory factors is consistent with approval of the application, it does not lend strong affirmative support to such approval.

CONVENIENCE, NEEDS, AND WELFARE OF THE COMMUNITIES AND AREAS CONCERNED

There are various ways in which affiliation with a holding company can assist a bank in improving and expanding the services it offers the public. It can also expand the range of, and facilitate, the bank's contacts among potential customers. These considerations taken by themselves tend to favor permitting such affiliation, but the weight to be given them in a particular case depends on the extent to which affiliation with the holding company in question will produce such results and, more important under the fourth statutory factor, on the demand for such improved and expanded services from the standpoint of the convenience, needs, and welfare of the communities and areas affected.

In respect to the fourth factor, the Applicant's case is presented principally in terms of (1) the need for increased bank credit to be supplied through Applicant, (2) the present need for a second state-wide bank holding company, and (3) augmented and improved services to be rendered by the proposed subsidiary Banks through their affiliation with Applicant. These considerations are related by Applicant principally to the upstate subsidiary Banks, insofar as their situations may be similar. While Morgan Guaranty would also be expected to benefit from the affiliation, it stands in a distinct relationship to the other proposed subsidiaries, since it is essentially the source of the assistance to be provided the upstate Banks.

As to the need for increased bank credit, Applicant states that banking resources in the areas of the upstate Banks have failed to keep pace with economic expansion, and asserts the probable inability of the banks in those areas to meet the credit demands incident to future economic expansion. It is said that present lending limits, as well as a lack of liquidity created by efforts to meet growing credit needs, will generally prevent the upstate Banks from playing the role they should in fostering future growth. As earlier indicated, Applicant has submitted the results of analyses of the Banks' capital based upon various tests, including its application of the Board's Form for Analyzing Bank Capital. According to Applicant such analyses reflect insufficient capital strength on the Banks' part to meet their financial responsibilities incident to this growth. Accordingly, Applicant asserts that stronger capitalization is required and that the recent experiences of some of the upstate Banks in seeking to raise additional capital, while not unsuccessful, have shown that additional capital required to meet increasing credit needs could more effectively be provided through affiliation with Applicant and, through it, with Morgan Guaranty.

Applicant's position as to capital insufficiency has been earlier dealt with insofar as it relates to the financial condition and prospects of the upstate Banks. As the point is related also to the question of the areas' convenience, needs, and welfare, the following observations appear pertinent.

Morgan Guaranty is very strongly capitalized and affiliation with it would permit improvement in the capital positions of the upstate Banks. The holding company would also make possible a greater flexibility in the mobilization of lending resources among the affiliates according to variations in demand among the various banks at different times. These considerations were regarded as significant by the New York State Superintendent of Banks as affecting the capacity of the upstate Banks to meet the credit needs of an expanding economy. As earlier pointed out, however, the Superintendent made it clear that under Departmental standards concerned with the present soundness of a given bank, the upstate Banks are not inadequately capitalized.

Applicant urges that the capital position of the upstate Banks could be enhanced by their affiliation with the proposed holding company through retention of earnings by the upstate Banks and large dividend payments to the holding company by Morgan Guaranty and through sale of the holding company's own securities. Applicant is of the further opinion that the proposed holding company would enable the upstate Banks to utilize their resources more effectively by the "drawing home" of correspondent balances, by better portfolio and money management, and by private placements and loan participations outside and within the group.

After careful consideration of the material submitted in support of these contentions of the Applicant, the Board concludes that the organization and operation of the holding company as proposed could, in general,

benefit the affiliating banks and improve their capacity to contribute to economic growth, both in the areas they serve individually and in the larger markets of the group's operations. This conclusion, however, leaves open the question of how significant the benefits of the proposed holding company affiliation would be, in relation both to the present capacities of the Banks involved and, most important, to the needs of the public for such added benefits.

Applicant has placed considerable emphasis on the point that the existing banking structure upstate is not adequate to handle expected growth. This growth is anticipated partly on the basis of projections of the growth trends of the period since 1950 during which, according to the Applicant, the upstate Banks have faced substantial demands for credit to finance a high level of industrial activity, residential construction, and consumer needs in their areas. Applicant has shown that the loan volume of the upstate Banks has increased significantly during this period and that, although capital has been raised by mergers and the issuance of equity securities as well as from earnings, nevertheless the liquidity of the Banks, as measured in part by ratios of capital to loans, has been somewhat reduced. To whatever extent this may be so, it nevertheless appears that the Banks have been able to grow to meet demand, and that the reduction in liquidity from 1950 levels is not such as to be a matter of concern from the standpoint of sound condition. More significantly, the Applicant has supplied little evidence that demands for bank credit in

the areas involved have not been met, whether by the Banks involved or otherwise. In fact, the New York State Superintendent of Banks, in describing a need to stimulate future economic growth in the State, cites a shift of industry to other areas of the country in recent years.

The Superintendent does foresee, however, as does the Applicant, economic growth and characterizes such growth as a major objective for the State. He expresses the view that formation of the holding company would contribute materially to the provision of the banking assistance necessary to industrial development.

Conceding that the improvement of banking services and facilities for the stimulation of economic growth is always to be desired, the prospect of such improvement through the establishment of the holding company necessarily carries less weight under the fourth statutory factor than it would if it could be demonstrated that the banking industry in the pertinent areas is or will be inadequately constituted to play its role without the formation of the holding company. Unless such inadequacy is shown to exist or can reasonably be anticipated, the formation of the holding company cannot be viewed as essential to the needs or even the convenience of the affected segments of the public. It has not been demonstrated to the Board's satisfaction that the existing banking structure is presently inadequate, and there seems to be little basis for assuming that the Banks in question, let alone area banks generally, cannot progress to meet future challenges.

A further reason urged by Applicant for approval of the proposed holding company is an alleged present need for a second statewide bank holding company to compete with the 11 subsidiary banks of the Marine Midland Corporation. These banks, with combined assets of over $2.6 billion, operate 179 offices throughout all of New York State's nine Banking Districts. This point is made in the context of the recent New York State legislation ending a "freeze" on the establishment of bank holding companies and said to evince, in part, a policy "that no existing bank holding company be granted a statutory monopoly". In this connection, the New York Superintendent of Banks has emphasized that nothing in the legislation or its legislative history and background affords a basis for belief that the State legislature found that any existing bank holding company held or exercised monopoly power in banking. Nevertheless, while Marine Midland is not the only holding company system in New York, no other banking organization has comparable physical coverage of the State.

The total assets of Morgan New York Corporation would substantially exceed those of Marine Midland Corporation, but this difference is almost wholly due to the difference in size between Morgan Guaranty and Marine Midland's New York City bank. As to upstate banks alone, within those Districts where the two systems both would have offices, the two systems would be substantially of like size as to both offices and deposits. From the standpoint of the size of its proposed upstate operations, Applicant's system

would seem well constituted to compete on a par with the Marine Midland system for those kinds of banking business as to which broad State coverage offers an advantage. How significant such business is, and the extent to which the six upstate Banks, without the proposed affiliation, could or do compete for and service such business, are major considerations in the Board's action on this application.

In respect to local, intradistrict, and national business, interdistrict affiliations do not appear to be particularly significant. It is not controverted, however, that there is a certain volume of business where such affiliations may make a difference. Concerns doing business in two or more Districts may be able to arrange with one system bank for certain services to be extended by all banks in the system as may be necessary. The Applicant and its witnesses have cited several instances in which the upstate Banks have been unable to obtain or retain certain customers, allegedly because they required banking service on a state-wide basis. Undoubtedly, some of the benefits of state-wide service could be provided by the independent banks through correspondent relationships or even through specific cooperative arrangements, but affiliation with a state-wide system would facilitate such cooperation over a broader range of services and could be more easily promoted through system advertising under the "image" of a unified organization. Thus, affiliation with such a system would admittedly give the upstate Banks some advantage over independent banks in obtaining certain kinds of business.

So far as the convenience, needs, and welfare of the pertinent areas are concerned, however, the immediate question is whether the public is adequately provided with the kinds of service that depend on state-wide or interdistrict banking relationships. Are present banking facilities sufficient to meet the demand for such services? To the extent that they are, the alleged need for another state-wide banking system is a less favorable consideration under the fourth factor.

The Applicant does not make a strong case for the proposition that the various means by which state-wide or regional industry and commerce can now be served are inadequate to the demand. On this point, Applicant's contentions are put largely in terms of the advantages that banks belonging to the Marine Midland system presently have over the proposed Morgan New York upstate Banks in obtaining such business. Applicant does not suggest that the Marine system is so free from competition that it has not in fact actively sought to provide the best in regional or state-wide banking service. Nevertheless, it can be assumed that if the proposed holding company were established, it would actively seek to serve the regional market and, in the process, stimulate Marine Midland to maintain or improve the quantity and quality of its regional service. The public would presumably benefit somewhat from this process but again, as in connection with the alleged need for improved sources of credit, such anticipation of benefit does not carry as much weight as it would if it were shown that the present state of the public's convenience, needs, and welfare called for material improvement or that future needs for such improvement cannot be met within the existing structure.

Applicant describes the ways in which it believes the holding company could enable the subsidiary Banks, principally those upstate, to provide augmented and improved services to customers, and also the ways in which the holding company could, through the centralization and coordination of some functions, improve the internal operations of the banks. According to Applicant, such benefits would result with respect to foreign department services, trust and investment advisory services, bank portfolio management, municipal bond service, management and personnel recruitment and training, economies in operation, support for local banks, and industrial development. In these respects, among others, the Applicant urges that the establishment of the proposed holding company would result in improvement in the present facilities of the several banks involved and, directly or indirectly, in benefit to the public. Once again, however, the relevant question is whether the alleged improvement and expansion of banking services are required to meet the convenience, needs, and welfare of the areas concerned.

The Applicant asserts that existing facilities are inadequate to serve the needs of customers, present and future, but apart from describing what the Banks as Applicant's subsidiaries could do that they are not now doing there is little, if any, real evidence that the public is inconvenienced because these particular Banks do not now do what they might as affiliates. The Board cannot assume that what is not being done needs to be done or is material to the public's convenience. On the contrary, it would appear, to some extent at least, that if relatively large

prospering banks with strong competitors are not providing a particular service, that service may not be especially in demand. There is little evidence that the upstate Banks are not now adequately meeting the needs for banking services in their respective areas.

Thus, the Board again reaches the conclusion that while improvement is always desirable, the need for improvement of what is already good stands in a different light than the need for correction of the inadequate, and the application of the fourth factor to this case appears to place it more in the former light than in the latter. This view nevertheless recognizes that the probable effects of the formation of the holding company on the convenience, needs, and welfare of the communities and areas involved would weigh somewhat in favor of approval of this application.

EFFECT ON ADEQUATE AND SOUND BANKING,
PUBLIC INTEREST, AND COMPETITION

In substance, the fifth statutory factor requires the Board to consider whether the size and extent of the proposed holding company would be consistent with adequate and sound banking, the public interest, and the preservation of competition. The matter of adequate and sound banking has to some extent been considered above as related to the financial condition and prospects of the Banks. To the extent that changes in the banking structure might result from formation of the holding company proposed, adequacy and soundness of banking must be

regarded as an aspect of the competitive considerations discussed below. The Board's concern as to the public interest is, of course, a dominant consideration in all aspects of this matter.

The prime considerations under the fifth factor are (1) the extent to which common control of the resources of the affiliating banks may limit or enhance opportunities for healthy and effective competition among banking institutions in the markets involved and (2) the effect on the public's choice of true alternatives for various banking services and facilities. In estimating such effects it is necessary to consider, among other things, the extent to which the affiliating banks now compete among themselves, the competitive positions now held and to be held by the affiliating banks in their own markets, and the position that the affiliating banks would hold as a group in the markets where group resources and facilities would be pertinent.

Competition must be considered in the context of the pertinent markets, and these involve both geographical and service coverage. The proposed holding company, through one or more of its subsidiaries, would be competing in a variety of markets, from the local level of retail banking to the regional, State, and national levels of wholesale banking for the largest industrial and institutional customers. The effects of the proposed holding company on competition at each of these levels must be considered to gain an understanding of the over-all effect on competition.

Competition among the proposed subsidiaries. - None of the upstate Banks has offices in the Banking District of another, except in the Sixth Banking District, which the Applicant divides between a two-county area where Oneida National has its offices, and a five-county area where First Trust has its offices. Based on figures as of December 31, 1960, each of the upstate Banks draws about 95 per cent of its total deposits in number of accounts and dollar volume from its own District. Each of the two Sixth District Banks draws a similar percentage of its deposits from its area of the Sixth District. Morgan Guaranty, in turn, drew from the Districts of the other Banks about 2 per cent of its total deposits originating in New York State; this amount, about $35 million, represented about 2 per cent of the upstate Banks' total deposits originating in New York State.

Analysis of loan sources reflects a comparable picture as to loans drawn by each Bank from outside its own District and from within the Districts of the other Banks. The figures as to deposits and loans would not seem to indicate that a substantial proportion of each Bank's total business is competitive with the other Banks. However, the total amount of competition between the Banks as so indicated is not insignificant; moreover, these figures reflect only the extent to which choice among the Banks is exercised, not the full extent to which such choice is reasonably available. Further, it may be anticipated that with the continuation of competitive efforts of the Banks in the context of the projected economic expansion and industrial development of the State the importance of competition between the Banks even in relation to their total business volume would increase.

Whether or not competition between the Banks does so increase in the future, it is clear that there is a degree of present and potential competition that would be eliminated by the formation of the holding company. Even though affiliated banks may actively compete with each other to some extent, they cannot be considered to be true alternative sources of service such as the Banks are now.

A broader consideration than the elimination of competition between particular banks is the effect of the formation of a holding company on the over-all intensity of competition for the banking business of the affected areas. This leads, then, to consideration of the present positions of the affiliating Banks in relation to other banks and of the effects of the formation of the holding company on the over-all banking structure, locally and beyond.

Competitive positions of the affiliating Banks in their respective areas. - The term "concentration" describes a major aspect of the problem of determining the effect of the formation of a holding company on competition in the field of banking in the areas affected. The problem of concentration involves the effect of affiliation on the public's choice of sources of banking services generally, not merely as between affiliating banks, and requires consideration of at least these questions: how many true alternative sources will remain; what will be their respective capacities; and what present or potential change from the existing situation will there be?

The point has been made in this case that there would be no significant change in concentration of banking resources in the Banks' respective service areas following the formation of the proposed holding company. That is, the public in the respective areas would have substantially the same number of alternative sources of banking service, and the distribution of the areas' banking resources among the alternatives would remain largely unchanged. This would not be true for those customers who can now conveniently choose among two or more of the affiliating Banks, but such customers do not appear to represent a large segment of the public according to the amount of interdistrict business previously described.

In the national market the upstate Banks are not significant competitors with Morgan Guaranty. They do, of course, have accounts of companies operating nationwide, but rather by reason of such customers' local operations than by reason of the large resources that can attract business from across the country to the "money centers" and to banks of Morgan Guaranty's size. Thus, for a substantial segment of the public, in the markets in which the affiliating Banks principally operate, the formation of the holding company would not result in a present reduction in real alternative sources of service.

The next aspect of concentration to be discussed is the distribution of banking resources among the alternatives available in the various markets: what effect would the formation of the holding company have on the relative competitive positions of banking institutions in these markets and, in the light of their present positions, how significant would that effect be?

It can first be recognized that affiliation with other banks in a holding company does not make each bank in the system equivalent to one bank with resources equal to those of the whole system. It cannot, for example, be said that Manufacturers and Traders in Buffalo would become the equivalent of a $5 billion bank after the formation of Morgan New York State Corporation. The total resources of the holding company would still have to support the activities of the same banking offices as the Banks' resources severally did before, and even the lending limits of the individual offices would not be changed by affiliation as they would be by corresponding mergers. On the other hand, as noted in the discussion of the fourth factor, there are some material respects in which the affiliation of the seven Banks would afford benefits to each and its customers that would not be otherwise so available, if at all. Thus, the formation of the holding company would provide new competitive strength to the Banks to some degree, and affect the general overall structure of banking in their areas accordingly.

The distribution of banking resources within the Districts of the upstate Banks and the positions of the Banks therein are indicated below, as of December 31, 1960 (except as otherwise indicated, the Sixth District is treated as two Districts in accordance with the Applicant's division).

In total deposits the upstate Banks range in size from about $86 million to $451 million. Four are the second largest in

their respective Districts and two are the largest, in terms of total deposits of commercial banks. In four Districts there is a larger mutual savings bank. The upstate Banks have in the aggregate about 22 per cent of the offices and 27 per cent of total deposits of commercial banks in the Districts of the subsidiary Banks - the range by District being from about 10 to about 35 per cent for offices and from about 16 to about 38 per cent for deposits. Of offices and total deposits of all banks in the same Districts, the upstate Banks hold about 20 per cent and about 17 per cent, respectively - the range by District being from about 10 to about 33 per cent for offices and from about 10 to about 39 per cent for deposits.

Referring to commercial banks only: In the Fourth District, National Commercial, the second largest, has over $325 million in total deposits as against about $95 million for the next largest. In the Seventh District, First-City National, the second largest, has over $86 million in total deposits as against about $38 million for the next largest. In the Eighth District, Lincoln-Rochester, the largest, has over $377 million as against $217 million for the next largest. In the Ninth District, Manufacturers and Traders, the second largest, has about $452 million as against $182 million for the next largest. In its five-county area of the Sixth District, First Trust, the largest, has over $182 million as against about $156 million for the next largest. In its two-county area of the Sixth District, Oneida National, the second largest, has over $111 million as against less than $20 million for the next largest.

When the total deposits of the two largest commercial banks in each of the five Banking Districts are combined (in each such combination a proposed subsidiary is included), in all but two Districts they amount to more than 50 per cent of the total deposits for commercial banks in the District. The range is from about 36 per cent to about 64 per cent. When the total deposits of the three largest banks, including mutual savings banks, in each District are combined (in each such combination a proposed subsidiary is included), in all but one District they amount to 40 per cent or more of the total for all banks in the District. The range is from about 33 per cent to about 56 per cent. In all but the Fourth District the two largest commercial banks and two of the three largest banks (including mutual savings banks) are a Marine Midland subsidiary and a proposed Morgan subsidiary. In the Fourth District the only Marine Midland bank is the third largest commercial bank and the fifth largest bank. In none of the five Districts are there more than six commercial banks with more than $40 million in total deposits; and there are at least 26 with less than $40 million in each of the five Districts.

The picture that emerges from the foregoing statistics, to the extent one can be drawn from figures alone, is not generally one of such clear and present dominance, monopoly, or even oligopoly, as to reflect a prima facie unhealthy competitive situation in the up-state banking Districts. There does emerge, however, the unmistakable

fact that each of the proposed subsidiaries is one of the two or three largest banks in its principal area of competition and that the great majority of banks in each District are very much smaller than the largest ones. These two elements conjoined describe a situation where, apart from the questions of immediate elimination of competition or significant increases in the size of any banks involved, the longer range effects and the broader aspects of the philosophy of the Bank Holding Company Act become the controlling considerations.

The existence of a significant disparity in the size of banks within an area of competition does not necessarily involve an undue competitive advantage for the larger banks. In the nature of the American banking system there is room for small and large banks alike to serve various markets well, even when their markets overlap. It is even inherent in that system that, within some limits, the large banks are free to increase the disparity through "natural" growth - that is, growth achieved without affiliation or merger. On the other hand, the partial check that competition imposes on natural growth is no obstacle to growth by acquisition or merger; legislative controls have therefore been deemed appropriate to protect against any such transactions which, without offsetting justifications, might tend to unbalance unduly the banking structure in an area - to the prejudice of healthy competition, of adequate and sound banking, and thus of the public interest. Such protection is afforded by the

Bank Holding Company Act of 1956, and it is the Board's responsibility to implement that protection as intended by Congress.

Applying to this case the purpose of that Act so far as found in the fifth factor, it seems clear that, whether or not existing disparities of competitive positions among banks in the areas and markets affected reflect a presently excessive imbalance, to permit such disparities to be increased as proposed would necessarily tend toward such imbalance - that is, away from the balance in which healthy competition is preserved. The strengthening, by affiliation, of a bank in an intermediate size range in its area tends to equalize competition with larger banks while increasing its advantage over smaller banks. These opposite effects must be weighed to determine the net effect on the competitive balance. In this case, each proposed subsidiary is in size at or near the top of the scale in its primary area of operation as defined by the Applicant. Four have larger commercial bank competitors, all have competitors of considerable strength, and some of these competitors have the support of a holding company, but the significant disparities in competitive positions are very largely to be found on the downside.

The proposed acquisitions would give the six upstate Banks, already in the top rank in their areas, the added benefits of affiliation with the largest bank holding company in the country and with the fifth largest bank in New York City. While independent banks in an

area may sometimes benefit in certain ways where one of their number comes under outside ownership, in the present case it is inevitable that in over-all effect the smaller banks would be left with a longer uphill climb in their efforts to catch up with the bigger banks; their existing competitive disadvantage would be increased. The competitive situation in the affected areas might still not necessarily be an unduly unbalanced one but, as noted previously, the bolstering of the positions of the big banks necessarily has that tendency.

As to the effect of consummation of this proposal on Morgan Guaranty's competitive position vis-a-vis the four larger New York Banks, it does not appear that any improvement that might follow from such action would involve sufficient benefit to the public to constitute a significantly favorable consideration in this case. The more material effects to be anticipated from any such improvement are, as with the upstate Banks, to be found in relation to smaller New York banks, so that as to Morgan Guaranty, too, the salient tendency of the formation of the holding company would be to strengthen the position of a top institution and put broad-based effective competition with it further beyond the reach of smaller banks.

It has been urged that in some respects the affiliation of a competitor with a holding company tends to stimulate the efforts of other banks, and figures have been offered to show that to a considerable extent smaller banks in New York State, as elsewhere,

seem well able to hold their own in competition with the large institutions and even to grow at a faster rate. These circumstances are recognized in the observation made previously that even considerable disparities in size do not by themselves necessarily reflect an undesirable competitive situation. It is also true that smaller banks tend to be found in faster-growing areas while larger institutions tend to be found in older, more settled urban areas. Thus, the growth rates of smaller banks may sometimes compare favorably with those of larger banks, but this cannot be said to be a result of, and therefore a positive justification for, permitting the affiliation of large banks in holding companies. Trends toward the equalization of competitive positions are to be encouraged, but the formation of the proposed holding company would, for the most part, impose further restraints on such trends.

Competitive effect of the proposed system as a group. - Moving from consideration of the effects of the proposed holding company affiliation on the individual situations of the subsidiary Banks, it is necessary to consider the probable effects of the operation of the holding company system as a whole. In this regard, Applicant has emphasized that the system will introduce a new and substantial competitive element into the regional and statewide markets in which the Marine Midland system is now the most conspicuous element, being the only banking organization with substantial physical coverage of the State through its own banking offices. The importance of such geographical coverage as a distinct

competitive element is, as noted previously, to be measured by the nature of the interdistrict markets and by the extent to which those markets cannot be adequately served by the banking industry through other methods.

The resources of the Marine Midland banks are not, of course, any measure of the size of the markets that transcend District lines. There seems to be no basis for assuming that the business done by those banks respectively is not largely the banking business of the Districts, counties, and communities where their offices are located. Thus, while affiliation in the Marine Midland system presumably assists the operations of the subsidiaries within their respective areas in ways such as those described by Applicant with respect to its own proposal, the significance of business obtained by the Marine banks through cross-referrals and cooperative servicing of interdistrict customers in relation to the total business of those Banks cannot be deduced merely from the geographical distribution of system banking offices. Unless it should appear that the business so obtained represents a significant market that is beyond the reach of banks not enjoying the geographical advantages of affiliation, the need for a "second state-wide holding company" becomes less apparent than it might seem on its face, and it does not become a strong favorable competitive consideration.

In connection with the discussion of the fourth statutory factor, the Board concluded that the evidence as to the need for

another holding company operating across District lines failed to show that there is a significant market for services that can only be adequately provided by such an organization, or that the advantages of interdistrict affiliation over correspondent banking relationships leave to Marine Midland alone the furnishing of services in an important market. Relating that conclusion to competition, it does not appear to have been shown that Marine Midland's competitive advantage derived from its unique coverage of the State is such that the public interest calls for the creation of a similar organization such as here proposed. A comparison of the growth of the proposed subsidiaries with the growth of Marine Midland Banks in the same periods affords no basis for a different view. It can be assumed that the proposed holding company would intensify competition for Marine Midland in the provision of some services, but on the record in this case, the arguments for another "state-wide" holding company do not seem to the Board to carry strong weight under the fifth factor.

In connection with future economic expansion and industrial development of the upstate areas as projected by Applicant, the market for specialized state-wide service may create a greater need for banking facilities of broader range. In such case, however, it would also be expected that the markets of the upstate Banks would expand to increase competition between them for interdistrict business, whereby such competition would become a more significant feature of banking competition generally in New York State. In this light the continuance

of the large upstate Banks as independent institutions is seen as a matter of increasing importance for the future. The effects of the changes in the banking structure proposed in this application would continue into the future, they are not likely to be undone, and the long-range influence of the proposed holding company system on banking competition must be appraised as must the immediate effects of its formation.

In summary, formation of the proposed holding company would strengthen the competitive positions of leading banks, and the resulting increase in their advantage over smaller institutions in this case weighs more significantly against approval than any resulting reduction in the advantage now held by any larger competitors over the Banks weighs in favor of approval. The Board must be concerned not only with the immediately apparent effects the formation of a holding company might have, but with the long-range tendencies as well. Thus, while the Board would not anticipate that creation of the Morgan system would necessarily bring about by itself an unhealthy competitive situation in any of the areas affected, it must be recognized that the combination of the large Banks here involved would not only presently enhance their advantageous positions but would provide a continuing and substantial source of additional strength for each of the Banks in its future competitive efforts - a source of a kind not generally available to smaller competitors. Thus, while the efforts of the latter might be

stimulated somewhat, the practical limits to success of such efforts would be further restricted for the future by approval of this proposal, and it is the maintenance of freedom for smaller as well as larger banks to compete effectively and to grow by their own efforts, without being driven towards merger or acquisition, that is the key to the preservation of competition. Viewing the facts of this case in that light, the proposed acquisition of the Banks by Morgan New York State Corporation cannot be regarded as consistent therewith.

Significance of fifth factor in the light of Congressional intent. - In referring to the five factors set forth in section 3(c) of the Bank Holding Company Act, the Report of the Senate Banking and Currency Committee stated:

> "It is upon the basis of these factors that the Federal Reserve Board is to measure whether each application should be granted or denied in the public interest." (Sen. Rep. No. 1095, 84th Cong., July 25, 1955, p. 10.)

No single one of the statutory factors is controlling; they must all be weighed together in determining whether a particular proposal would be "in the public interest". Nevertheless, it seems clear that, in balancing considerations related to these factors, the Board must have in mind the over-all purposes of the statute. The impetus for its enactment was the need for control of affiliations of banks through the holding company device because, uncontrolled, such activity could lead to "undue concentration" of banking resources and

the attendant power to restrain or inhibit competition. Thus, it was contemplated that the Board, in passing on holding company applications, would be concerned with the traditional supervisory considerations reflected in the first four statutory factors, but would, in addition, have the responsibility of ensuring that holding company acquisitions would not be inimical to present and potential competition. In this sense, the fifth factor is of prime importance, as is indicated by the legislative history.

It is clear from repeated statements in the Committee Reports and the Congressional debates that Congress recognized that bank holding companies are not evil per se but that the concern of Congress arose from the potential dangers inherent in the unregulated acquisition of control of banking resources by such companies. This concern was expressed by Chairman Spence of the House Banking and Currency Committee in explaining the bill on the floor of the House; and it is significant that his concern related not only to existing holding companies but to the formation of future holding companies.

> "If you concentrate money and credit in the same hands, you have an impregnable monopoly. * * * We think that the centralized concentration of economic power is just as dangerous as the concentration of political power.
>
> "It is more lasting. It is harder to break. We think that the control of the expansion and the creation of future bank holding companies will have the effect of weakening that power. The centralization of banks, of banking interests, is a bad thing for the economy of the Nation. * * * Even though you may point to some holding companies that have done a moderately good business, it is the opportunity, it is the power that is given, that is dangerous." (101 Cong. Rec. 8021.) [Underscoring supplied]

The need for legislation to lessen the potential dangers of concentration of control of banking resources in holding companies was similarly emphasized in the Report of the House Banking and Currency Committee which stated (p. 14):

> "The holding company device lends itself readily to the amassing of vast resources obtained largely from the public, which can be controlled by the relatively few who comprise the management of the holding company, giving them a decided advantage in acquiring additional properties and in carrying out a program of expansion. * * *" (H. Rep. No. 609, 84th Cong., May 20, 1955, p. 14.)

The Senate Banking and Currency Committee's Report of July 25, 1955, stated (p. 1):

> "It is not the Committee's contention that bank holding companies are evil of themselves. However, because of the importance of the banking system to the national economy, adequate safeguards should be provided against undue concentration of control of banking activities. * * *" [Underscoring supplied]

Coupled with the objective of preventing such undue concentration of banking power was the related objective of protecting the independent unit banking system. Perhaps the strongest statement in this respect was the following language in the House Committee Report (p. 2):

> "* *** There has been developed in this country * * * a conception of the independent unit bank as an institution having its ownership and origin in the local community and deriving its business chiefly from the community's industrial and commercial activities and from the farming population within its vicinity or trade area. Its activities are usually fully integrated with the local economic and social organization. The bank holding company device threatens to destroy this democratic grassroots institution."

Similar statements appear frequently in the debates on the bill. To give but one example, Representative Johnson of Wisconsin felt that, unless the bill was enacted, "the present system of independent, community banks will be endangered and ultimately banking will be in the hands of a few, with several super bank holding companies extending across the country." (101 Cong. Rec. 8176)

The foregoing brief review of the history of the Act makes it clear that, while all of the statutory factors must be considered by the Board, the fifth factor relating to competition must be regarded as of special significance. The competitive considerations were emphasized in the Senate Banking and Currency Committee's Report (p. 10):

> "* * * It will be noted that these factors extend beyond the nature of those primary in importance to bank supervisory authorities in the exercise of their supervisory powers. In most instances, safety of the depositor's funds and adequate banking service to the public in the area where the bank operates are uppermost in the consideration of such bank supervisory authorities. The factors required to be taken into consideration by the Federal Reserve Board under this bill also require contemplation of the prevention of undue concentration of control in the banking field to the detriment of public interest and the encouragement of competition in banking * * *."

During the debates on the bill, Senator Bricker observed that the fifth factor "is the most important and requires the Federal Reserve Board to consider the question of the public interest and the preservation of competition in the field of banking. This provision gives the Federal Reserve Board power to prevent undue concentrations of banking activities and at the same time permits the strengthening and expansion of banking facilities when needed." (102 Cong. Rec. 6861)

As implied by Senator Bricker, it appears that the fifth factor reflects the primary objective of Congress - control of the expansion and creation of bank holding companies to prevent undue concentration and to preserve banking competition, even though in some circumstances the strengthening and expansion of banking facilities when needed may be sufficient to outweigh a lessening of banking competition.

It seems clear that the concern of Congress with respect to the power of holding companies to achieve "undue concentration" goes beyond the prevention merely of those acquisitions that would immediately put a holding company in a dominant position. It appears that Congress also recognized that when a bank holding company is one of the largest organizations in its fields of operations, it may occupy, as may any other banking organization of comparable size, a position of strength and influence, potential as well as actual, that may involve difficulties for less well situated competitors. Therefore, the expansion of such a holding company and, even more, the formation of a holding company that will occupy such a position, is necessarily a step towards concentration that weakens the relative positions of the remaining competition, and a step whose adverse effects will continue into the future.

Against this legislative background, it is the Board's opinion that the formation of the holding company here proposed would constitute such a step toward concentration, in view of the size of the proposed system and its constituent banks in the various markets in which they would operate both individually and as a group.

The Board cannot fail to attach significance to the fact that the proposed system would include the fifth largest bank in New York City (the sixth largest in the country) and six of the largest banks in the pertinent upstate New York areas. Size alone is not a controlling consideration; but where, as in this case, the proposed holding company would control such a large amount of banking resources strategically located throughout the State of New York, the Board is compelled to conclude, for the reasons heretofore indicated, that formation of the holding company would have serious adverse consequences for the competitive banking structure of the State.

This is not to suggest that the economic power of the proposed holding company would be abused or improperly exercised; the Board's conclusion is based upon its belief that the trend toward concentration that would result from the proposed transaction would be inconsistent with the intent of Congress as reflected by the fifth statutory factor.

Summary and conclusion. - In view of the conclusion just stated, the Board cannot approve the proposed transaction unless its adverse effects on banking competition are so clearly outweighed by favorable considerations related to the first four statutory factors as to make it appear that consummation of the transaction would be in the public interest. To some extent, as has been noted, the proposal might contribute to the banking convenience of the areas served by the proposed upstate subsidiary Banks. To some extent also the proposed holding company might aid in the general expansion of the economy of the State. These considerations, however, are

not, in the Board's opinion, so persuasive as to offset the Board's conclusion that, under the fifth statutory factor, the transaction would result in the creation of a holding company the size and extent of which would be inconsistent with preservation of competition in the field of banking.

On the basis of all the relevant facts as contained in the record before the Board and in the light of the factors set forth in section 3(c) of the Act and the underlying purposes of the Act, it is the Board's judgment that the transaction here proposed would not be consistent with the public interest and that the application should therefore be denied.

May 4, 1962

Item No. 5
5/3/62

IN THE MATTER OF THE APPLICATION OF
MORGAN NEW YORK STATE CORPORATION

CONCURRING STATEMENT OF GOVERNOR MITCHELL

Among the issues raised in this proceeding, the overriding ones are, in my judgment, the impact of the Applicant's proposal on efficiency of the allocation of credit and on the structure of competitive relationships.

The Applicant's proposal is, in essence, a proposal to establish a huge pool of banking resources in New York State, a "common market in credit" of sorts. Would this proposed pooling or "common market" more efficiently and competitively allocate credit among alternative users?

One block to efficiency which such a "common market" could remove would exist if "regions" within the State of New York were strictly delimited economically, i.e., if all borrowers, depositors, and banks as lenders were bound absolutely to the "regions" of their domicile so that credit resources could not flow from one to another region. Then a situation could exist in which a region would have a high deposit density but a dearth of investment opportunities, or a low deposit density and a great quantum of unsatisfied credit demand. The inauguration of a pooling arrangement or "common market" would then generate benefits analogous to the "gains of trade": Borrowers formerly intra-regionally bound could then appeal inter-regionally for funds,

depositors would earn rewards and incur charges in proportion to their productivity and not in proportion to artificial constraints on their supply, and owners of bank shares would realize capital gains. In short, almost everyone would be "better off."

The increases in efficiency the Applicant asserts would result from the pooling arrangement must be based, at least implicitly, on the assumptions outlined above. But these assumptions are at variance with conditions existing here. The constituent upstate banks are branching systems broadly based in the metropolitan areas and adjacent peripheries they serve. They are not in the least confined in equalizing resources and needs within their trade area. In addition, they can readily tap or contribute to banking resources that flow inter-regionally and nationally. Contributing to the resources needed elsewhere is nothing more than a greater participation in national or broad regional markets for business, government, or consumer credit. Tapping nonlocal resources is largely a matter of utilizing correspondent resources. Those who would argue that the arrangement proposed would function more efficiently than the credit allocation device it would seek to replace--the existing correspondent banking network--argue, in absence of factual proof of their case, that an exclusive correspondent relationship is better than the freedom to seek the best correspondent that competitive conditions can produce.

An aspect of the pooling proposal that is, in my judgment, quite troublesome is the change implicit in the situs of decision-making with respect to the broad allocation of loanable funds. Since lending resources are insufficient to meet all claims on them, the rationing process must needs reflect the lending institutions' judgments of their long-run advantage. It seems likely to me that such judgment, made centrally in New York City, as I believe it would be, would result in a different structure of rationing priorities than if made independently by the institutions involved. By this I mean that it is likely that the interest of the small business loan customers would be given a lower priority by reason of the "status of size" in a very large organization. The customers of the holding company's banks who would be likely to enjoy a higher priority - medium and large business borrowers - are precisely those who have other alternatives including access to capital markets and direct placements with insurance companies. Small business customers of the holding company do not share similar advantages.

A higher position in the scale of priorities may not be costless to even these medium and large business borrowers. Many such firms could regard several banks in the State and region as alternative credit sources. Independence of such credit sources is a positive advantage for these firms because it is conducive of competition on rates and charges. No amount of argument pleading that this pooling arrangement would "increase services" to these borrowers can change the fact that the joining of the lenders would make one credit source where seven existed before; that competition in the real sense between these important banks would henceforth be foreclosed.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON 25, D. C.

Item No. 6
5/3/62

May 3, 1962

CONFIDENTIAL (FR)

Mr. Joseph M. Case,
Chief Examining Officer,
Federal Reserve Bank of Philadelphia,
Philadelphia 1, Pennsylvania.

Dear Mr. Case:

In accordance with the request contained in your letter of April 26, 1962, the Board approves the appointment of John P. Lamond as an assistant examiner for the Federal Reserve Bank of Philadelphia. Please advise the effective date of the appointment.

It is noted that Mr. Lamond is indebted to Manufacturers and Traders Trust Company, Buffalo, New York, a State member bank located in Federal Reserve District No. 2, but that he will not participate in any examination of that bank.

Very truly yours,

(Signed) Elizabeth L. Carmichael

Elizabeth L. Carmichael,
Assistant Secretary.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON 25, D. C.

Item No. 7
5/3/62/

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

May 3, 1962

Mr. Geo. W. Sheffer, Jr.,
Chief Examiner,
Federal Reserve Bank of Atlanta,
Atlanta 3, Georgia.

Dear Mr. Sheffer:

In accordance with the request contained in your letter of April 30, 1962, the Board approves the designation of Alton Donald Sands as a special assistant examiner for the Federal Reserve Bank of Atlanta for the purpose of participating in the examination of State member banks only. The authorization heretofore given your Bank to appoint Mr. Sands as an assistant examiner is hereby canceled.

Very truly yours,

(Signed) Elizabeth L. Carmichael

Elizabeth L. Carmichael,
Assistant Secretary.