Minutes for August 5, 1965

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 proposed to place in the record of policy actions required to be kept under the provisions of section 10 of the Federal Reserve Act an entry covering the item in this set of minutes commencing on the page and dealing with the subject referred to below:

Page 1 Amendment to Regulation Q, Payment of Interest on Deposits.

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. Robertson _____

Gov. Balderston _____

Gov. Shepardson _____

Gov. Mitchell _____

Gov. Daane _____

Gov. Maisel _____

Minutes of the Board of Governors of the Federal Reserve System on Thursday, August 5, 1965. The Board met in the Board Room at 10:00 a.m.

PRESENT: Mr. Martin, Chairman
Mr. Balderston, Vice Chairman
Mr. Shepardson
Mr. Mitchell
Mr. Maisel

Mr. Sherman, Secretary
Mr. Kenyon, Assistant Secretary
Mr. Hackley, General Counsel
Mr. Solomon, Director, Division of Examinations
Mr. O'Connell, Assistant General Counsel
Mr. Shay, Assistant General Counsel
Mr. Leavitt, Assistant Director, Division of Examinations
Mrs. Semia, Technical Assistant, Office of the Secretary
Mr. Young, Senior Attorney, Legal Division
Mr. Egertson, Supervisory Review Examiner, Division of Examinations

Discount rates. The establishment without change by the Federal Reserve Banks of Minneapolis and Kansas City on August 4, 1965, of the rates on discounts and advances in their existing schedules was approved unanimously, with the understanding that appropriate advice would be sent to those Banks.

Application of Wells Fargo Bank (Item No. 1). Unanimous approval was given to a letter to Wells Fargo Bank, San Francisco, California, approving the establishment of a branch at Homestead Road and Kiely Boulevard, Santa Clara. A copy of the letter is attached as Item No. 1.

Amendment to Regulation Q (Item No. 2). There had been distributed a memorandum dated August 3, 1965, from the Legal Division recommending

that section 217.3(a) of Regulation Q, Payment of Interest on Deposits, be amended to reflect the approval on July 21, 1965, of an act amending section 19 of the Federal Reserve Act so as to continue from October 15, 1965, until October 15, 1968, the exemption of deposits of foreign governments and certain foreign institutions from regulation by the Board of Governors as to rates of interest member banks may pay on time deposits. Attached to the memorandum was a draft of amendment.

The amendment, a copy of which is attached as Item No. 2, was approved unanimously effective August 5, 1965.

Application of Marine Midland Trust Company (Items 3-5). At yesterday's meeting the Board had discussed drafts of an order and statement reflecting the Board's approval on July 14, 1965, of the application of The Marine Midland Trust Company of New York to acquire the assets and assume the liabilities of Grace National Bank of New York, both banks being in New York City.* A related problem concerned the question to what extent and in what terms the statement should mention allegations made in a letter addressed to Mr. Hackley by Thurman Arnold, of the law firm of Arnold, Fortas & Porter, as counsel for Michael P. Grace, II, to the effect that the proposed acquisition by Marine Midland would violate principles of equitable protection of minority stockholders' rights and of creditors' rights. There had now been distributed a second draft of statement, revised to reflect the views expressed during yesterday's discussion.

* The title of the acquiring bank would be changed to Marine Midland Grace Trust Company of New York.

Comments during today's meeting related principally to editorial suggestions and matters of procedure. The members of the Board expressed general satisfaction with the substance of the revised statement, but it was noted that Governor Robertson, who was testifying before a Congressional committee today, had not had an opportunity to finalize his dissenting statement. Under the Board's internal rules of procedure it would be possible for a dissenting statement to be issued subsequent to the release of the majority statement. However, it was the consensus that it would be preferable to have both statements issued at the same time. Comment was made also that Judge Arnold had indicated orally that additional material bearing upon his complaints on behalf of his client would be submitted to the Board toward the end of this week, and the Board might be somewhat vulnerable to criticism if it issued its order and statement without waiting to receive that material.

At the conclusion of the discussion the issuance of the Board's order and statement was authorized, with the understanding that they would be issued in company with Governor Robertson's dissenting statement.

Secretary's Note: At the meeting on August 6, 1965, Mr. Hackley reported that a further letter, with certain enclosures, had been received from the law firm of Arnold, Fortas & Porter. There was general agreement with Mr. Hackley's recommendation that the contents of the latest submission should be digested by the Legal Division and that the pertinent portion of the majority statement should be reviewed and amended to such extent as might appear appropriate in the light of such analysis. It was also agreed that in the absence

of unforeseen developments necessitating further Board consideration, the order, statement, and dissenting statement would then be issued. The hope was expressed that the review of the latest submission would not delay too greatly the issuance of the Board's order.

The aforementioned review having been accomplished, and it appearing to the Legal Division that there was no compelling reason to bring the matter back to the Board, the order, statement, and dissenting statement were issued on August 10, 1965. Copies of the documents, as issued, are attached as Items 3, 4, and 5.

Messrs. Young and Egertson then withdrew from the meeting.

Manufacturers Hanover antitrust suit. On July 8, 1965, the Board received a confidential report from Mr. Solomon, based on information received informally from a representative of the Department of Justice, regarding possible settlement of the antitrust suit against Manufacturers Hanover Trust Company, New York City. At today's meeting Mr. Solomon reported further advice on the negotiations, which contemplated that Manufacturers Hanover would sell to a selected bank in New York City a specified number of branches. One feature of the plan was said to be the acceptance by Manufacturers Hanover of debentures of the other bank.

There ensued a general discussion of the advice received, including the reported means of financing the sale of the branches, and in broader terms the implications of a pyramiding of bank capital from the standpoint of consequences for the banking system. Since the negotiations in the Manufacturers Hanover case apparently were still in the formative stage, it was pointed out that it could not be said with

certainty what final plan, if any, might come before the Board for approval. However, there was a consensus that, since a representative of the Department of Justice had furnished the information to Mr. Solomon, it would be appropriate for the latter to indicate to the Justice representative informally that there might be some question if a proposal should come before the Board for approval that involved a financing element such as reportedly was under consideration.

All of the members of the staff except Mr. Sherman then withdrew and Mr. Holland, Associate Director, Division of Research and Statistics, entered the room.

Study of discount mechanism. Governor Mitchell stated that the committee appointed at yesterday's meeting of the Board (Governor Mitchell, Chairman, and Governors Shepardson and Maisel) had prepared a tentative program with respect to organizing the study of fundamental reforms that might be made in the discount mechanism. He then proceeded to read a memorandum as follows:

> In response to the Board's request, we have considered the organizational and staffing requirements of the fundamental study of the discount mechanism approved at the meeting of August 4, 1965, and have the following recommendations to make.
>
> We recommend that the overall direction of the study be undertaken by a Steering Committee consisting of four Federal Reserve Bank Presidents and three members of the Board, plus the Chairman of the Board ex officio. This Committee should be assisted by a small Advisory Committee of Federal Reserve Bank Chairmen and Deputy Chairmen to advise on considerations of public relations and the public interest.

The Steering Committee should be served by an 11-man Secretariat, comprised of senior Reserve Bank and Board officials plus one senior economist from the Board staff. The Secretariat would be responsible for organizing all aspects of the discount study under the guidelines laid down by the Steering Committee. Such organizational activity would include developing suggestions for studies to be considered by the parent committee, arranging for the personnel and other resources necessary to conduct such studies, and assembling and integrating the results of the studies for presentation to the Steering Committee. It is expected that a number of small working groups of System personnel would be organized to study various aspects of the discount mechanism, some concentrating on possible improvements in rules and operations that could be developed and instituted fairly quickly and others undertaking longer-range reappraisals that might provide a basis for more fundamental reforms of the discount mechanism as time progresses.

Progress reports and possible recommendations for action would be presented periodically by the Steering Committee to the Board. Such reports and recommendations could also be transmitted to the Conference of Presidents, with requests for the views of the Presidents whenever appropriate.

Listed below are suggestions for membership on the groups proposed in this memorandum.

Steering Committee

Governor Mitchell, Chairman
Governor Shepardson
Governor Maisel
Chairman Martin, ex officio
President Bopp (Philadelphia)
President Clay (Kansas City)
President Scanlon (Chicago)
President Shuford (St. Louis)

Secretariat

Mr. Holland, Chairman (Board)
Mr. Young (Board)
Mr. Farrell (Board)
Mr. Hackley (Board)
Mr. F. Solomon (Board)
Mr. Shull, Secretary (Board)

Mr. Coldwell (First Vice President, Dallas)
Mr. Strothman (First Vice President, Minneapolis)
Mr. Bilby (Vice President, New York)
Mr. Melnicoff (Vice President, Philadelphia)
Mr. Merritt (Vice President, San Francisco)

Chairman Martin noted that the Board's committee suggested the formation of a Steering Committee that would consist of eight members, as indicated in the memorandum read by Governor Mitchell, and a Secretariat that would consist of eleven members, with widespread System representation.

Governor Mitchell stated that he had talked with President Bopp, who was enthusiastic about moving ahead on the study and who concurred in the arrangement both for the Steering Committee and for the Secretariat. Mr. Bopp also had concurred in a suggestion that the Steering Committee hold a meeting on August 10 when the Presidents of the Reserve Banks would be in Washington for a meeting of the Federal Open Market Committee.

Question was then raised as to the proposed Advisory Committee of Reserve Bank Chairmen mentioned in the memorandum read by Governor Mitchell and referred to in the staff memorandum of April 21.

Governor Mitchell stated that the formation of such an Advisory Committee was to be considered further by the Steering Committee, that it probably would not be desirable to appoint the Advisory Committee until the study had been organized more fully and gotten under way, but that it seemed desirable to provide for such a committee that might advise on considerations of public relations and the public interest. Governor

Mitchell also suggested, in response to a question, that the Advisory Committee might include representation from the Reserve Banks not represented on either the Steering Committee or the Secretariat. He noted, however, that the specific appointment of the Advisory Committee would probably be deferred for some period of time.

After further discussion of the proposed arrangements for carrying forward the study, the Board approved unanimously the appointment of the Steering Committee as proposed in the memorandum read by Governor Mitchell, with the understanding that the latter would communicate with the four Reserve Bank Presidents listed to ascertain whether they would serve on the committee. It was also understood that appropriate advice would be given to the members of the Secretariat and that if possible a meeting of the Steering Committee would be held on August 10.

Chairman Martin suggested that it would also seem desirable to have a brief joint meeting of the Board and the Presidents of the Reserve Banks following the meeting of the Federal Open Market Committee on August 10 to acquaint the Presidents fully with the steps being taken to implement the study of the discount instrument, as discussed at this meeting and as reviewed by Governor Mitchell with Mr. Bopp as Chairman of the Conference of Presidents.

Messrs. Young and Noyes, Advisers to the Board, entered the room during the foregoing discussion.

Report on international developments. Chairman Martin reported on informal discussions that he had had with the Secretary of the Treasury

and others regarding current developments in the foreign exchange situation, particularly as related to the United Kingdom.

The meeting then adjourned.

Secretary's Note: Governor Shepardson today approved on behalf of the Board a letter to J. M. Thayer, Jr., Cashier, Federal Reserve Bank of Boston, advising that Mr. Kelleher, Director, Division of Administrative Services, would serve as an associate of the ad hoc subcommittee of the Committee on Systems and Procedures of the Conference of Presidents that had been requested to make a study of System purchasing procedures.

Secretary

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

Item No. 1
8/5/65

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

August 5, 1965.

Board of Directors,
Wells Fargo Bank,
San Francisco, California.

Gentlemen:

The Board of Governors of the Federal Reserve System approves the establishment by Wells Fargo Bank, San Francisco, California, of a branch at the intersection of Homestead Road and Kiely Boulevard, Santa Clara, California, provided the branch is established within one year from the date of this letter.

Very truly yours,

(Signed) Karl E. Bakke

Karl E. Bakke,
Assistant Secretary.

(The letter to the Reserve Bank stated that the Board also had approved a six-month extension of the period allowed to establish the branch; and that if an extension should be requested, the procedure prescribed in the Board's letter of November 9, 1962 (S-1846), should be followed.)

Item No. 2
8/5/65

TITLE 12 - BANKS AND BANKING

CHAPTER II - FEDERAL RESERVE SYSTEM

SUBCHAPTER A - BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Q]

PART 217 - PAYMENT OF INTEREST ON DEPOSITS

Foreign Time Deposits

1. Effective August 5, 1965, paragraph (a) of § 217.3 is amended to read as follows:

§ 217.3 Maximum rate of interest on time and savings deposits.

(a) Maximum rate prescribed from time to time. Except in accordance with the provisions of this part, no member bank shall pay interest on any time deposit or savings deposit in any manner, directly or indirectly, or by any method, practice, or device whatsoever. No member bank shall pay interest on any time deposit or savings deposit at a rate in excess of such applicable maximum rate as the Board of Governors of the Federal Reserve System shall prescribe from time to time; and any rate or rates which may be so prescribed by the Board will be set forth in supplements to this part, which will be issued in advance of the date upon which such rate or rates become effective. During the period commencing on October 15, 1962, and ending on October 15, 1968, the provisions of this paragraph shall not apply to the rate of interest which may be paid by member banks on time deposits of foreign governments, monetary and financial authorities of foreign governments when acting as such, or international financial institutions of which the United States is a member.

2a. The purpose of this amendment is to amend the last sentence of § 217.3(a) so that it will conform with Public Law 89-79 (79 Stat. 244), approved July 21, 1965. That law extended for a period of three years the exemption of deposits of foreign governments and certain foreign institutions from regulation by the Board of Governors as to the rate of interest that member banks may pay on time deposits.

b. There was no notice and public participation with respect to this amendment, nor is the effective date thereof deferred. In the circumstances, such procedure and delay would serve no useful purpose. (See § 262.1(e) of the Board's Rules of Procedure (12 CFR 262.1(e)).)

(12 U.S.C. 248(i).)

Dated at Washington, D. C., this 5th day of August, 1965.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

(SEAL)

(Signed) Merritt Sherman

Merritt Sherman,
Secretary.

Item No. 3
8/5/65

UNITED STATES OF AMERICA

BEFORE THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

WASHINGTON, D. C.

In the Matter of the Application of

THE MARINE MIDLAND TRUST COMPANY OF NEW YORK

for approval of acquisition of assets of Grace National Bank of New York

ORDER APPROVING ACQUISITION OF BANK'S ASSETS

There has come before the Board of Governors pursuant to the Bank Merger Act of 1960 (12 U.S.C. 1828(c)), an application by The Marine Midland Trust Company of New York, New York, New York, a State member bank of the Federal Reserve System, for the Board's prior approval of its acquisition of assets and assumption of deposit liabilities of Grace National Bank of New York, New York, New York, and, as an incident thereto, The Marine Midland Trust Company of New York has applied, under section 9 of the Federal Reserve Act, for the Board's prior approval of the establishment by that bank of a branch at the location of the sole office of Grace National Bank of New York. Notice of the proposed acquisition of assets and assumption of deposit liabilities, in form approved by the Board, has been published pursuant to said Act.

Upon consideration of all relevant material in the light of the factors set forth in said Act, including reports furnished by the

Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Attorney General on the competitive factors involved in the proposed transaction,

IT IS HEREBY ORDERED, for the reasons set forth in the Board's Statement of this date, that said applications be and hereby are approved, provided that said acquisition of assets and assumption of deposit liabilities and establishment of the branch shall not be consummated (a) within seven calendar days after the date of this Order or (b) later than three months after said date.

Dated at Washington, D. C. this 10th day of August, 1965.

By order of the Board of Governors.

Voting for this action: Chairman Martin, and Governors Balderston, Shepardson, Mitchell, Daane, and Maisel.

Voting against this action: Governor Robertson.

(Signed) Merritt Sherman

Merritt Sherman,
Secretary.

(SEAL)

BOARD OF GOVERNORS

OF THE

FEDERAL RESERVE SYSTEM

Item No. 4
8/5/65

APPLICATION BY THE MARINE MIDLAND TRUST COMPANY OF NEW YORK
FOR APPROVAL OF ACQUISITION OF ASSETS OF
GRACE NATIONAL BANK OF NEW YORK

STATEMENT

The Marine Midland Trust Company of New York, New York, New York ("Marine"), with total deposits of $951 million, has applied, pursuant to the Bank Merger Act of 1960 (12 U.S.C. § 1828(c)), for the Board's prior approval of its acquisition of assets and assumption of liabilities of Grace National Bank of New York, New York, New York ("Grace"), which has total deposits of $292 million.[1/] As an incident to the transaction, the name of the acquiring bank would be changed to "Marine Midland Grace Trust Company of New York", and the sole office of Grace would become a branch of Marine, increasing its number of offices to 14.

Under the law, the Board is required to consider, as to each of the banks involved, (1) its financial history and condition, (2) the adequacy of its capital structure, (3) its future earnings prospects, (4) the general character of its management, (5) whether its corporate powers are consistent with the purposes of 12 U.S.C., Chapter 16 (the Federal Deposit Insurance Act), (6) the convenience

1/ Deposit figures are as of December 31, 1964.

and needs of the community to be served, and (7) the effect of the transaction on competition (including any tendency toward monopoly). The Board may not approve the transaction unless, after considering all of these factors, it finds the transaction to be in the public interest.

Shortly before the issuance of its Order in this case, the Board received letters from a law firm representing a stockholder of Grace, requesting that the Board's decision be deferred until consideration was given by the Board to alleged inequities and violations of the rights of minority stockholders and creditors of Grace. The letters alleged (1) that the proposed transaction was "structured" as an acquisition of assets in order to avoid requirements of provisions of the national banking laws with respect to appraisal of the interests of minority stockholders in the case of a merger or consolidation - requirements that do not expressly apply to an acquisition of assets; and (2) that the transaction involves an absence of arm's-length dealing, in violation of the fiduciary obligation owed by majority stockholders to minority stockholders.

The allegation that the proposed transaction is a de facto merger and therefore is, or should be, subject to the "appraisal" provisions of Federal law (12 U.S.C. 214-214c) designed to protect the rights of minority stockholders of national banks, ignores the fact that Congress clearly has drawn a distinction in this respect between mergers and acquisitions of assets. It ignores also the fact that the Bank Merger

Act of 1960 recognizes the existence of that distinction by specifically providing for approval of "acquisitions of assets" as well as "mergers".

The Comptroller of the Currency is principally responsible for administration of the national banking laws, including those relating to mergers and voluntary liquidations of national banks. He was acquainted with the terms of the proposed transaction, and has presented no objections of the kind now raised by counsel for a stockholder of Grace.

In these circumstances, the Board concludes that it would not be warranted in deciding that the proposed transaction would involve a violation of sections 214-214c of Title 12 of the United States Code.

The allegation that the transaction violates a general fiduciary obligation owing by majority stockholders to minority stockholders is not based upon specific provisions of any Federal statute; and the Board does not interpret Federal statutes and judicial decisions as requiring the Board to adjudicate nonstatutory rights of minority stockholders.

Information regarding the matters that were the subject of the aforementioned letters was contained in the record before the Board prior to receipt of such letters and, in essential respects, in the application in this case received by the Board January 15, 1965. Notice of the proposal was published pursuant to the Bank Merger Act in February and March 1965. The substance of the various points in the letters is easily identifiable from documents supplied by Grace with the notice, dated April 20, 1965, of the special meeting of that bank's stockholders on May 13, 1965, at which the proposal was approved. Nevertheless, no

reason has been advanced on behalf of the protesting shareholder for his failure to present his objections at an earlier time, during the months that the pending proposal has been before the Board.

In view of the circumstances stated above, the Board has concluded, after consideration of the arguments advanced in the letters previously mentioned, that deferment of the Board's action in this case, for the reasons advanced in those arguments, would not be in the public interest. The Board's action does not, of course, preclude determination of the rights of minority stockholders of Grace in an appropriate forum, and legal proceedings to determine such rights actually have been instituted.

Banking factors. - Marine is an affiliate of Marine Midland Corporation, Buffalo, New York, a bank holding company registered under the Bank Holding Company Act of 1956, and Grace is the sole banking subsidiary of W. R. Grace & Co., New York, New York, the owner of over 80 per cent of the stock of the bank. W. R. Grace & Co. is engaged chiefly in the chemical and food processing industries. The financial histories of Marine Midland and Grace are satisfactory, and each bank has a sound asset condition and an adequate capital structure. Each bank has a good earnings record and satisfactory future earnings prospects, and the management of each is experienced and competent. The acquiring bank would have capable management, a sound asset condition, an adequate capital stucture, and good future earnings prospects.

There is no indication that the corporate powers of the banks are, or would be, inconsistent with the purposes of 12 U.S.C., Chapter 16.

Convenience and needs of the communities. - Marine and Grace are headquartered in the borough of Manhattan, New York City. Of Marine's 13 domestic offices, 5 are located in the financial district of lower Manhattan, 5 in the midtown area, and 3 in the central portion of the borough of Queens. The sole office of Grace is located at the outer fringe of Manhattan's financial district, about 6 blocks from the main office of Marine and several blocks further from the latter's nearest branch. In the 6 blocks separating the proponent banks, there are 11 offices of other commercial banks.

Marine offers complete "retail" banking services at all its offices and, although the principal local area served is Manhattan, the bank is closely linked through the holding company with other subsidiary banks elsewhere in New York State. Marine is also active in the national and international markets. The bank recently established an office in London and a foreign banking subsidiary, Marine Midland International Corporation. The international transactions of Marine center around parts of Europe, the Middle East, and, to a lesser extent, the Far East.

Grace, under the ownership of W. R. Grace & Co., has become a specialist in international banking, concentrating, in this respect, in Latin American transactions. The bank does not solicit "retail" trade; it discourages small checking and savings accounts, offers no consumer loans, has no real estate mortgage department, and normally utilizes the services of only a few tellers.

With the abundant number of commercial banking offices in Manhattan and the New York City metropolitan area providing a multitude

of services, the banking needs and convenience of the local community are being adequately satisfied.

The proposed transaction, however, would result in a higher lending limit for Marine (but one still markedly lower than that of its next larger rival), and make possible certain economies in its operations. Of particular significance would be the ability of Marine to offer a broader range of international banking services and to do so throughout a broader geographical area. Thus, the customers of the proponent banks would have available a somewhat wider variety of banking services than is presently provided by either bank. This would be especially beneficial to the convenience of those customers engaged in international operations.

Competition. - Marine, with 1.8 per cent of the IPC deposits,[2/] is the ninth largest of 44 commercial banks located in New York City and Grace, with .6 per cent of such deposits, ranks fourteenth in this respect. With the acquisition of Grace, Marine would rank eighth among New York City banks in terms of IPC deposits, but would be less than one-half the size of the seventh largest bank and slightly more than one-fourth larger than the ninth ranking bank. Marine obtains 79 per cent of its IPC deposits from the New York City metropolitan area and 63 per cent of such deposits from Manhattan. Although Grace derives about 50 per cent of its IPC deposits from customers located in Manhattan, many of these use Grace only because of its well known connections and expertise in international banking. They emphasize different types of banking services and such competition as exists between the two banks is quite limited.

2/ Deposits of individuals, partnerships, and corporations. The figures are as of June 30, 1964.

As was pointed out in the discussion of the convenience and needs factor, Marine offers a full range of retail services, whereas Grace does not compete for such business. Indeed, it appears that the bulk of such "retail" services as are provided by Grace are for accommodation purposes, either for personnel of its own corporate family or for those of its corporate customers. In this connection, it is pertinent to note that the average IPC deposit of Grace is more than twice the size of that of Marine. Further, a substantial number of the proponent banks' deposit and loan accounts originating in Manhattan are attributable to large commercial and industrial enterprises for whose banking business there is a national market.

While both banks are active in international banking, the dependence of Grace on business from this market is substantially greater than that of Marine, a relative newcomer in the field. Marine attributes about 5 per cent of its IPC deposits and 9 per cent of its loans to the international market; comparable figures for Grace are 36 per cent and 30 per cent, respectively. This allocation was made on the basis of accounts with addresses outside the United States and accounts maintained primarily for business outside the United States. In addition, some companies have been attracted to these banks - particularly so in the case of Grace with its high degree of specialization - because they wish to have expertise in international financial transaction available even though this service is used infrequently or for only a small part of their business. If these accounts

were included, over one-half of Grace's IPC deposits and almost one-half of its loans outstanding would be attributable to the international market.

As indicated earlier, the international transactions of the two banks center around different areas. Neither bank offers international banking services comparable to those offered by the major international banks of New York City. However, as a result of combining the international banking skills and resources of the two institutions as is proposed, Marine could readily develop an international banking department capable of increasing the vigor of competition in the international market.

It seems quite unlikely that the acquisition of Grace by Marine would thwart significant potential competition in any market. Grace is a part of a corporate structure in which the banking business was generated as a by-product of other corporate operations. The fundamental purpose of Grace has been to deal with international banking transactions for its parent. The parent corporation now has shifted the emphasis of its operations from transportation and trading to other fields and no longer regards a banking affiliate as of special usefulness. In these circumstances, the parent merely wants to get out of the banking field and is not interested in having Grace expand its rather limited range of banking services.

Marine, as previously noted, is a subsidiary of Marine Midland Corporation, a registered bank holding company with a total of 11 commercial banks that operate 201 offices in 119 communities in New York

State. The $3.1 billion aggregate deposits held by Marine Midland Corporation's banking affiliates represent 5.4 per cent of the total deposits of all commercial banks in New York State; with the acquisition of Grace the portion of such deposits held would increase to 5.9 per cent. The nearest affiliate of Marine Midland Corporation to Marine is in Nyack, some 40 miles north of downtown Manhattan. Although the 10 subsidiaries of Marine Midland Corporation located outside New York City derive about 3.7 per cent of their deposits from accounts with metropolitan area addresses, and 3.1 per cent of their loans are to borrowers with such addresses, these deposits and loans are less than .2 per cent of the deposits and loans held by New York City headquartered banks. Grace obtains about 2 per cent of its deposits and 5 per cent of its loans from portions of New York State outside the metropolitan area.

Because of Marine Midland Corporation's banking subsidiaries located in various parts of the State, an application to absorb a banking unit into the Marine Midland group requires that consideration be given to the possibility that the absorption may have adverse effects on banks that compete with subsidiaries of the holding company. On this point it is relevant that Grace's correspondent activity is, and gives every prospect of being no more than, extremely limited both as to the kind of services offered and the extent to which it is availed of by banks in the areas served by the holding company's subsidiaries. Grace has 10 correspondent banks located in areas served by banks of the Marine Midland group; all 10 have other New York City bank correspondents, with

numerous other alternatives also available to them. While the size of Marine Midland Corporation is impressive, it does not appear that the addition of Grace would lead to any significant adverse effects upon banking competition.

Summary and conclusion. - The proposed acquisition of Grace by Marine, if consummated, would result in a slight increase in concentration of banking resources. However, competition (existing and potential) between the two banks is quite limited, and such acquisition would not result in any significant adverse competitive effect. It is to be expected that the transfer of Grace to Marine would provide for the continuation and improvement of a banking office which seems almost certainly destined for liquidation or other disposition by its parent; and it would seem likely that the absorption of Grace - if this proposal were to be rejected - would be more attractive to a bank larger, instead of a bank smaller, than Marine. The banking public, and especially the convenience for banking customers in the international market, would be benefited as a result of combining the resources and complementary skills of the proponent banks, and this would also enhance competition, most significantly in the market for international banking services.

Accordingly, the Board finds that the proposed transaction would be in the public interest.

August 10, 1965.

DISSENTING STATEMENT OF GOVERNOR ROBERTSON

Item No. 5
8/5/65

I am unable to find evidence in the record of this case to support the view of the majority that the proposed transaction would be in the public interest within the meaning of the Bank Merger Act of 1960.

The majority concludes that there is little significance in the fact that Marine and Grace obtain, respectively, about 63 per cent and 50 per cent of their IPC deposits from Manhattan (and neglects to mention that each also obtains about 50 per cent of its loan accounts from the same area). Essentially, two reasons are given for this conclusion: first, it is said that "Marine offers a full range of retail services, whereas Grace does not compete for such business"; and, secondly, it is said that "a substantial number of the proponent banks' deposit and loan accounts originating in Manhattan are attributable to large commercial and industrial enterprises for whose banking business there is a national market". Taken at face value, these two reasons together lead to the conclusion that the banks are substantial competitors in offering wholesale banking services for those businesses that, despite access to a national market, find it desirable to have alternative sources of such services in New York City. The fact that there may be a national market for a product or service does not preclude the existence also of a meaningful local market for the same product or service. See, e.g., Brown Shoe Co. v. United States, 370 U.S. 294, 336-37 (1962). This possibility, unfortunately, is given short shrift by the majority.

Further - although the majority is so unimpressed as to omit the fact - it is not without significance, I think, that the acquisition of Grace will boost Marine fourteen places in rank among the nation's largest banks, from thirty-sixth to twenty-second in terms of total deposits. In addition, I cannot accept the view that, simply because Grace has, in effect, been labeled a limited service bank and Marine a full service bank, there is no significant competition existing between them. The record shows that of the twenty-one principal banking services provided by Marine, Grace provides twenty - every one except consumer instalment loans.

In considering the market for international banking services, the majority stresses that the international transactions of the two banks center around different areas: Latin American in the case of Grace; Europe, the Middle East and, to a lesser extent, the Far East in the case of Marine. Apparently, the intended implication is that Grace and Marine do not compete for the same kind of international banking business and the proposed acquisition can, therefore, have no adverse competitive effects in this market. The fact is, however, that Grace maintains more than 500 international banking correspondent relationships in 55 countries. These circumstances do not support the conclusion that there is no significant competition between the proponent banks in the international market.

Further, I do not think it is particularly meaningful that Marine attributes only 5 per cent of its IPC deposits to the

international market as compared to 36 per cent for Grace. In absolute figures, the IPC deposits of Grace attributed to the international market total over $62 million and those of Marine total over $29 million. Marine, a member of a gigantic bank holding company group with resources about eighteen times as great as those of Grace and with considerable personnel and skills in the international field, hardly needs to acquire Grace to develop its international - or any other - banking business. In this connection, if the international transactions of the proponent banks do in fact center around different geographical areas, Marine's wish to acquire Grace suggests that it is a potential competitor in any event - i.e., desirous of entry through internal expansion into the areas now served by Grace. Instead of increasing the vigor of competition in the international banking market, the acquisition of Grace will enable Marine to augment its position in international banking by eliminating a substantial competitive force.

A most disturbing finding by the majority is that the acquisition of Grace by Marine would not foreclose significant potential competition in any market since Grace's parent corporation no longer finds a banking affiliate of special usefulness, merely wants to withdraw from the banking field and is not interested in having Grace expand its range of banking services. Of course, if the transaction were not approved and Grace failed to offer new services, it would not mean that Marine - or other commercial banks - could not, or would not, offer banking services in direct competition with those presently

offered by Grace. More fundamentally, by its willingness to approve asset acquisitions under the circumstances of this case, the majority effectively removes the need for banks such as Grace to offer additional services.

The denial of the application would, no doubt, entail some inconvenience for the owners of Grace. Under the Bank Merger Act, however, the paramount consideration is the general public interest, not the convenience of stockholders. More particularly, it is incredible that the majority is capable of giving as a reason for approving the proposal that Grace "seems almost certainly destined for liquidation or other disposition by its parent; and it would seem more likely that the absorption of Grace - if this proposal were to be rejected - would be more attractive to a bank larger, instead of a bank smaller, than Marine." Does the majority actually fear that, if it rejects this proposal, it (or another banking agency, depending on the Federal affiliation of the applicant) will, or must, approve the absorption of Grace by a bank larger than Marine? The very purpose of the Bank Merger Act, although not to prevent the owners of banks from disposing of their holdings, is to assure that such dispositions are in the public interest and, in this connection, the banking agencies, including this Board, are charged with the responsibility of assessing, and giving weight to, the consequences for banking competition.

The acquisition of Grace will increase Marine's IPC deposits by more than 30 per cent; in terms of total deposits, Marine will move

well into the billion dollar category. The 14 largest commercial banks headquartered in New York City, which include the proponent banks, account for nearly 97 per cent of the IPC deposits held by all such banks. After the proposed acquisition, the city's eight largest commercial banks, which include Marine, will hold more than 89 per cent of the IPC deposits of the city's commercial banks - and it is no answer that Grace presently holds only .6 per cent of such deposits. "On the contrary, if concentration is already great, the importance of preventing even slight increases in concentration and so preserving the possibility of eventual deconcentration is correspondingly great." United States v. Philadelphia National Bank, 374 U.S. 321, 365 n. 42 (1963).

Finally, the finding of the majority that the addition of Grace's resources to Marine Midland Corporation's bank holding company system would lead to no significant adverse effects for banking competition, as well as the finding that the transaction would benefit the convenience of banking customers, cannot be reconciled, in my judgment, with the Board's denial of an earlier application by Marine Midland Corporation to acquire all of the voting shares of the Security National Bank of Long Island. 48 Federal Reserve Bulletin 1597 (1962).

In that case, now inexplicably ignored by the majority, the Board, in discussing the "convenience and needs" factor, stated:

". . . Applicant [Marine Midland Corporation] goes to great length in describing the improved and additional services Security would be able to offer as a subsidiary, but gives very little specific information on the area's need for such services. . . . [T]here is little in the application to indicate that banking services of the types listed are inadequate or unsatisfactory in Security's service areas. . . . [T]here is little, if any, real evidence that the public is inconvenienced because Security does not now do what it might as a subsidiary of Applicant. . . . [and] the Board cannot assume that what is not being done needs to be done or is material to the public's convenience." Id. at 1602.

Similarly, if there is a scintilla of evidence in the record of this case that the public served by the proponent banks is inconvenienced by lack of banking services, the majority fails to point it out; actually, there is none. Yet, the majority is now unaccountably willing to "assume that what is not being done needs to be done . . . [and] is material to the public's convenience."

In considering the effect on competition of the proposed acquisition of Security National Bank by Marine Midland Corporation, the Board stated:

". . . Applicant [Marine Midland Corporation] presently controls 11 banks in New York State which operate 181 banking offices located in each of the State's nine banking districts and had, at the end of 1961, aggregate deposits of $2.54 billion. Applicant advertises its size and State-wide coverage and places much weight on this unique feature of its operations. According to Applicant, it can provide better services for its customers throughout the State of New York than can its competitors through regular correspondent relationships. Acquisition of Security would further enhance Applicant's position in the New York State banking structure. . . . The proposed acquisition would also result in a substantial addition to Applicant's over-all size; it would acquire 33 banking offices (an increase of 18.2 per cent in its banking offices) and $221.5 million deposits (an increase of 8.7 per cent). The result of this acquisition, which in and of itself

is not insignificant, would give Applicant more complete State-wide coverage and banks headquartered in all nine of the State's banking districts. . . ."

". . . As to the effect of the proposed transaction upon the size and extent of Applicant's holding company system as it relates to adequate and sound banking, the public interest, and preservation of competition in the field of banking, the concentration of banking resources and activities which would result from the proposed acquisition would be inimical to the preservation of banking competition and inconsistent with the public interest. This being the case, it is the view of the Board that the application should be denied." Id. at 1606-07.

Marine Midland Corporation has the most geographically extensive banking system in New York State and ranks seventh, behind six New York City headquartered banks, in total banking resources. Presently, as was true at the time of its application to acquire Security National Bank, Marine Midland Corporation has 11 banking subsidiaries, but these subsidiaries now operate 201 banking offices, not 181 as was then the case; the aggregate deposits of these subsidiaries is now $3.1 billion, not $2.54 billion as was then the case; and, consummation of the present transaction will add $292 million to the total deposits of the holding company group, not $222 million as was then the case.

If the Board was on sound ground in refusing to permit the addition of Security National Bank to the Marine Midland Corporation group - I think it was, and the majority offers no reason as to why it was not - then, a fortiori, the addition of Grace to that group should be prohibited.

I would deny the application.

August 10, 1965.