FEDERAL RESERVE press release

For immediate release September 7, 1999

The Federal Reserve Board today announced its approval of the proposal of Fleet Financial Group, Inc., to acquire BankBoston Corporation, both of Boston, Massachusetts, and its banking and nonbanking subsidiaries. The combined organization will be the largest banking institution in the northeastern United States. To address competitive concerns arising from the proposal, Fleet is required to divest more than 300 branches, controlling total deposits of more than $13 billion, located in Massachusetts, Connecticut, New Hampshire, and Rhode Island. This is the largest divestiture ever to take place in connection with a banking combination.

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

Attachment

FEDERAL RESERVE SYSTEM

Fleet Financial Group, Inc.
Boston, Massachusetts

BankBoston Corporation
Boston, Massachusetts

Order Approving the Merger of Bank Holding Companies

Fleet Financial Group, Inc. ("Fleet"), a bank holding company within the meaning of the Bank Holding Company Act ("BHC Act"), has requested the Board's approval under section 3 of the BHC Act (12 U.S.C. § 1842) to merge with BankBoston Corporation ("BankBoston") and thereby acquire BankBoston's subsidiary banks, including its lead subsidiary bank, BankBoston, N.A., Boston, Massachusetts.[1] Fleet also has requested the Board's approval under section 4(c)(8) of the BHC Act (12 U.S.C. § 1843(c)(8)) and section 225.24 of the Board's Regulation Y (12 C.F.R. 225.24) to acquire the domestic nonbanking subsidiaries of BankBoston.[2] In addition, Fleet has filed applications and notices under section 4(c)(13) of the BHC Act (12 U.S.C. § 1843(c)(13)), sections 25 and 25A of the Federal Reserve Act (12 U.S.C. §§ 601 et seq. and 611 et seq.), and the Board's Regulation K (12 C.F.R. 211) to acquire the foreign operations and Edge Act subsidiaries of BankBoston.[3]

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1 Fleet also would acquire BankBoston's other subsidiary banks: BankBoston of Florida, N.A., Boca Raton, Florida; and BankBoston Maine, N.A., Portland, Maine.

2 The nonbanking activities of BankBoston for which Fleet has sought approval under section 4 of the BHC Act and the subsidiaries engaged in these activities are listed in Appendix A.

3 Fleet and BankBoston also have requested the Board's approval to hold and exercise stock purchase options that allow Fleet to purchase up to 19.9 percent of

Fleet, with total consolidated assets of approximately $104.4 billion, is the ninth largest commercial banking organization in the United States, controlling approximately 2.5 percent of total banking assets of insured commercial banks in the United States ("total banking assets").[4] Fleet operates depository institutions in Connecticut, Florida, Maine, Massachusetts, New Hampshire, New Jersey, New York, and Rhode Island. Fleet also engages in a broad range of permissible nonbanking activities nationwide.

BankBoston, with total consolidated assets of approximately $73.5 billion, is the 15th largest commercial banking organization in the United States, controlling approximately 1 percent of total banking assets. BankBoston operates subsidiary banks in Connecticut, Florida, Maine, Massachusetts, New Hampshire, and Rhode Island. BankBoston also engages nationwide in numerous permissible nonbanking activities.

As discussed more fully below, Fleet has proposed to divest branches controlling more than $13 billion in deposits and associated assets in connection with the proposal to address the potential effects of the proposal on competition in various markets in Massachusetts, Connecticut, and Rhode Island. After accounting for the proposed divestitures, the proposal would create a combined organization that would be the eighth largest commercial banking organization in the United States, with total consolidated assets of approximately $164.9 billion, representing approximately 3.5 percent of total banking assets. The combined organization would operate under the name Fleet Boston Corporation ("Fleet Boston"), and would have a significant presence in the northeastern United States.

BankBoston's common stock and BankBoston to purchase up to 19.9 percent of Fleet's common stock if certain events occur. Fleet and BankBoston would not exercise these options if the merger is consummated.

4 Asset data and rankings are as of December 31, 1998.

Factors Governing Board Review of the Transaction

The BHC Act enumerates the factors the Board must consider when reviewing the merger of bank holding companies or the acquisition of banks. These factors are the competitive effects of the proposal in the relevant geographic markets; the financial and managerial resources and future prospects of the companies and banks involved in the transaction; the convenience and needs of the communities to be served, including the records of performance under the Community Reinvestment Act (12 U.S.C. § 2901 et seq.) ("CRA") of the insured depository institutions involved in the transaction; and the availability of information needed to determine and enforce compliance with the BHC Act.[5] In cases involving interstate bank acquisitions, the Board also must consider the concentration of deposits nationwide and in certain individual states on consummation of the proposal, as well as compliance with other provisions of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 ("Riegle-Neal Act").[6]

Public Comment on the Proposal

To give interested members of the public an opportunity to submit comments to the Board on the statutory factors that it is charged with reviewing, the Board published notice of the proposal and provided a period of time for public comment.[7]

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5 In cases involving a foreign bank, the Board also must consider whether the foreign bank is subject to comprehensive supervision or regulation on a consolidated basis by appropriate authorities in the foreign bank's home country.

6 Pub. L. No. 103-328, 108 Stat. 2338 (1994).

7 Notice of the proposal was published in the Federal Register (64 Federal Register 27,990 (1999)) and in local newspapers in accordance with the Board's Rules of Procedure. See 12 C.F.R. 262.3(b). Notice of the proposal also was listed on the Board's website.

The Board extended the initial period for public comment to accommodate the public interest, providing interested parties more than 54 days to submit written comments on the proposal.

Because of public interest in the proposal, particularly in New England where the combined organization would be a significant competitor, the Board also held a public meeting on the proposal in Boston, Massachusetts, on July 7, 1999. The public meeting gave interested persons an opportunity to present oral testimony on the various factors the Board is charged with reviewing under the BHC Act. Approximately 150 people testified at the public meeting, and many persons who testified also submitted written comments.

In total, approximately 344 individuals and organizations submitted comments on the proposal through oral testimony, written comments, or both. Commenters included several members of the U.S. Congress; state and local government officials; community groups and educational and nonprofit organizations; small business owners and groups concerned with business issues; customers of Fleet and BankBoston; organizations interested in purchasing divested assets; union representatives; and other interested organizations and individuals. Comments were submitted by organizations, individuals, and representatives from Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and other states. Commenters filed information and expressed views supporting and opposing the merger.

In evaluating the statutory factors under the BHC Act, the Board carefully considered the information and views presented by all commenters, including the testimony presented at the public meeting and the information submitted in writing. The Board also considered all the information presented in the application, notices, and supplemental filings by Fleet and BankBoston, and various reports filed by the relevant companies, publicly available information, and other reports. In addition, the Board reviewed confidential supervisory information, including examination reports regarding the bank holding companies and the depository institutions involved, and information provided by other federal banking agencies and the Department of Justice. After a careful review of all the facts of record, and for the reasons discussed in this order, the Board has concluded that the statutory factors it is required to consider under the BHC Act and other relevant banking statutes are consistent with approval of the proposal, subject to the conditions noted in this order.

Interstate Analysis

Section 3(d) of the BHC Act, as amended by section 101 of the Riegle-Neal Act, allows the Board to approve an application by a bank holding company to acquire control of a bank located in a state other than the home state of the bank holding company if certain conditions are met. For purposes of the BHC Act, the home state of Fleet is Rhode Island,[8] and BankBoston's subsidiary banks are located in Connecticut, Florida, Maine, Massachusetts, New Hampshire and Rhode Island.[9]

Section 3(d) of the BHC Act provides that the Board may not approve a proposal if, after consummation, the applicant would control more than 10 percent of the total deposits of insured depository institutions in the United States.[10] In addition, the Board may not approve a proposal if, on

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

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

[10] 12 U.S.C. § 1842(d)(2)(A). For this purpose, insured depository institutions include all insured banks, savings banks, and savings associations.

consummation of the proposal, the applicant would control 30 percent or more of the total deposits of insured depository institutions in any state in which both the applicant and the organization to be acquired operate an insured depository institution, or such higher or lower percentage established by state law.[11]

On consummation of the proposal, Fleet Boston would control approximately 2.8 percent of the total amount of deposits held by insured depository institutions in the United States. Fleet Boston would control less than 30 percent, or the appropriate percentage established by applicable state law, of total deposits held by insured depository institutions in Connecticut, Florida, Maine, Massachusetts and New Hampshire, the states in which Fleet currently operates a bank or branch and, on consummation of the proposal, would assume additional deposits.[12] All other requirements of section 3(d) of the BHC Act also would be met after consummation of the proposal.[13] In view of all the

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[11] 12 U.S.C. § 1842(d)(2)(B)-(D).

[12] On consummation, Fleet Boston would control less than 30 percent of total deposits in insured depository institutions in Connecticut, Florida, Maine, and Massachusetts. See Conn. Gen. Stat. § 36a-411 (West 1999); Fla. Stat. Ann. § 658.295(8)(b) (West 1999); Me. Rev. Stat. Ann. Tit. 9B, § 375 (West 1999); Mass. Gen. Laws ch. 167A, § 2 (West 1999). The appropriate deposit cap in New Hampshire is set by New Hampshire state law at 20 percent, and Fleet Boston would not, on consummation of the proposal, exceed this limit. See N.H. Rev. Stat. Ann. § 384:58(II) (West 1999). In Fleet's home state of Rhode Island, Fleet proposes to divest the entire banking operations of BankBoston on consummation of the proposal, and thus its deposit share in the state would remain unchanged.

[13] Fleet is adequately capitalized and adequately managed as defined in the Riegle-Neal Act. 12 U.S.C. § 1842(d)(1)(A). BankBoston's subsidiary banks have been in existence and operated for the minimum periods of time necessary to satisfy the minimum age requirements established by applicable state law. See 12 U.S.C. § 1842(d)(1)(B). The Board also has contacted the relevant state banking commissioners regarding, and considered Fleet's record of compliance with, applicable state community reinvestment laws.

facts of record, the Board is permitted to approve the proposal under section 3(d) of the BHC Act.

Competitive Factors

Section 3 of the BHC Act prohibits the Board from approving an application if the proposal would result in a monopoly or would be in furtherance of any attempt to monopolize the business of banking. The BHC Act also prohibits the Board from approving a proposed combination that would substantially lessen competition or tend to create a monopoly in any relevant banking market, unless the Board finds that the anticompetitive effects of the proposal are clearly outweighed in the public interest by the probable effect of the proposal in meeting the convenience and needs of the community to be served.14

The proposed merger of Fleet and BankBoston would combine two banking organizations that are among the largest providers of banking services in a number of markets in Connecticut, Massachusetts, New Hampshire, and Rhode Island. The Board has carefully analyzed the effect of the transaction on competition in the relevant banking markets in light of all the facts of record, including public comments on the proposal.

A number of commenters contended that the proposal would have a beneficial effect on competition in New England by preserving a large bank headquartered in New England, which these commenters believed would understand and be responsive to the needs of New England customers and would have the resources to offer sophisticated products and services in the region. Some commenters contended that the divestitures proposed by Fleet would assure adequate competition by creating an additional large competitor in New England and,

14 12 U.S.C. § 1842(c)(1).

especially to the extent divestitures were made to smaller banking organizations, also would strengthen competition in various local banking markets.

Other commenters asserted that the proposed merger would have significantly adverse effects on competition throughout New England. A number of commenters expressed concern that the merger would reduce the banking options available to consumers and businesses. Various commenters also feared that the combined organization would charge higher fees, offer fewer products and services, and provide less convenient access to banking services. Some commenters expressed particular concern that the combined organization would reduce its home mortgage and small business lending and that other competitors would not be available to compensate for that loss. Other commenters stressed the importance of using the divestiture process to ensure competition for loans to mid-sized businesses; these commenters often suggested that the appropriate geographic market for analyzing the effect of the merger on competition for such loans is statewide or regional in scope.

In order to address the competitive effects of the proposal, Fleet has proposed to divest more than 300 branches located in Massachusetts, Connecticut, and Rhode Island, controlling combined deposits of approximately $13 billion.[15] In several of the largest markets in which Fleet and BankBoston branches overlap, including Boston, Cape Cod, and Worcester, Massachusetts; Hartford, Connecticut; and Newport and Providence, Rhode Island, Fleet proposes to divest all or substantially all the branches of Fleet or Bank Boston, whichever has the smaller market share in the market.[16] If the divested branches were viewed as a stand-

15 Deposit data are as of June 30, 1998.

16 In general, Fleet would divest Fleet branches in Massachusetts and New Hampshire and BankBoston branches in Connecticut and Rhode Island.

alone institution, they would constitute the third largest commercial bank in Massachusetts and in Rhode Island and the ninth largest commercial bank in Connecticut.17 Fleet also would divest approximately 550 automated teller machines ("ATMs") located in Connecticut, Massachusetts, New Hampshire, and Rhode Island.

Fleet has proposed to transfer substantially all of the branches and ATMs to be divested to a single out-of-market competitor. Based on all the facts of record, it appears that the purchaser would have sufficient scale, expertise, and dedicated resources to compete effectively in serving the credit needs of large and mid-sized businesses, while also providing banking products and services to individuals and small businesses.

In addition, Fleet proposes to sell approximately 30 branches in Massachusetts to several smaller commercial banking organizations that currently operate in the area in which they would acquire the divested branches. Based on all the facts of record, these smaller purchasers also appear to be capable of competing effectively in the areas where their acquisitions would occur.18 The sale of branches to these smaller competitors should not impede the ability of the larger purchaser to compete effectively with Fleet Boston for large and mid-sized business customers or retail customers.

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17 Fleet proposes to divest 204 branches with $8.5 billion of deposits in Massachusetts; 50 branches with $2.2 billion of deposits in Rhode Island; 39 branches with $1.8 billion of deposits in Connecticut; and 13 branches with $500 million of deposits in New Hampshire.

18 Each of the acquiring financial institutions would be required to file an application with the appropriate federal financial supervisory authority, which would address the competitive effects of the proposed acquisition, the managerial and financial resources of the acquiror, the effect of the acquisition on the convenience and needs of the community to be served, and other relevant factors.

A. Definition of Banking Markets

In order to determine the effect of a particular transaction on competition, it is necessary to designate the area of effective competition between the parties, which the courts have held is decided by reference to the relevant "line of commerce" or product market and a geographic market. As discussed above, some commenters suggested that the competitive analysis should focus on the impact of the merger on mid-sized businesses, small businesses, or other customers. Commenters also contended that the relevant geographic market for analyzing this merger should be variously defined as regional, statewide, multicity, or intra-city.

Product Market. The Board and the courts consistently have recognized that the appropriate product market for analyzing the competitive effects of bank mergers and acquisitions is the cluster of products (various kinds of credit) and services (such as checking accounts and trust administration) offered by banking institutions.[19] According to the Supreme Court, the clustering of banking products and services facilitates convenient access to these products and services, and vests the cluster with economic significance beyond the individual products and services that constitute the cluster.[20] Several studies support the conclusion that both businesses and households continue to seek this cluster of services.[21]

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19 See Chemical Banking Corporation, 82 Federal Reserve Bulletin 239 (1996) ("Chemical"), and the cases and studies cited therein. The Supreme Court has emphasized that it is the cluster of products and services that, as a matter of trade reality, makes banking a distinct line of commerce. See United States v. Philadelphia National Bank, 374 U.S. 321, 357 (1963) ("Philadelphia National"); accord United States v. Connecticut National Bank, 418 U.S. 656 (1974); United States v. Phillipsburg National Bank, 399 U.S. 350 (1969) ("Phillipsburg National").

20 See Phillipsburg National, 399 U.S. at 361.

21 See Elliehausen and Wolken, Banking Markets and the Use of Financial Services by Households, 78 Federal Reserve Bulletin 169 (1992); Elliehausen and

Consistent with these precedents and studies, and on the basis of the facts of record in this case, the Board concludes that the cluster of banking products and services represents the appropriate product market for analyzing the competitive effects of the proposal.

Geographic Market. In defining the relevant geographic market, the Board consistently has sought to identify the area in which the cluster of products and services is provided by competing institutions and in which purchasers of the products and services seek to obtain these products and services.22 In applying these standards to bank acquisition proposals, the Board and the courts repeatedly have held that the geographic market for the cluster of banking products and services is local in nature.23 In delineating the relevant geographic market in which to assess the competitive effects of a banking merger or acquisition, the Board reviews population density; worker commuting patterns; advertising patterns of financial institutions; the presence of shopping, employment, healthcare, and other necessities; and other indicia of economic intergration and the transmission of competitive forces among banks.24

Wolken, Banking Markets and the Use of Financial Services by Small- and Medium-Sized Businesses, 76 Federal Reserve Bulletin 726 (1990).

22 See, e.g., Sunwest Financial Services, Inc., 73 Federal Reserve Bulletin 463 (1987); Pikeville National Corporation, 71 Federal Reserve Bulletin 240 (1985); Wyoming Bancorporation, 68 Federal Reserve Bulletin 313 (1982), aff'd 729 F.2d 687 (10th Cir. 1984).

23 See Philadelphia National, 374 U.S. at 357; Phillipsburg National; First Union Corporation, 84 Federal Reserve Bulletin 489 (1998); Chemical; St. Joseph Valley Bank, 68 Federal Reserve Bulletin 673 (1982) ("St. Joseph").

24 See Crestar Bank, 81 Federal Reserve Bulletin 200, 201 n.5 (1995); Pennbancorp, 69 Federal Reserve Bulletin 548 (1983); St. Joseph; Chemical.

In applying these principles, the Federal Reserve Bank of Boston (the "Reserve Bank") has employed a methodology that defines the retail banking market by identifying a market core as cities or counties that contain substantial employment opportunities and then grouping surrounding areas with significant patterns of commuting to and other indicia of economic integration with these market cores. The criteria for adding communities to the market delineation become more stringent as the counties become more remote from the core. Following this approach, the Reserve Bank has identified 18 local banking markets in six states in which Fleet and BankBoston compete.

Based on this analysis, and all the facts of record, including population density, commuting patterns, and other commercial patterns throughout the region in which Fleet and BankBoston compete, the Board concludes that the appropriate geographic markets for considering the competitive effects of the proposal are these 18 local banking markets, which are described in Appendix B.

B. Analysis of Local Banking Markets

The Board has carefully reviewed the competitive effects of the proposal in each of these banking markets in light of all the facts of record, including the characteristics of the markets and the projected increase in the concentration of total deposits in depository institutions in these markets ("market deposits"),25 as measured by the Herfindahl-Hirschman Index ("HHI") under the Department of Justice Merger Guidelines ("DOJ Guidelines").26

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25 In this context, depository institutions include commercial banks, savings banks, and savings associations. Market share data are based on calculations that include the deposits of thrift institutions at 50 percent. The Board previously has indicated that thrift institutions have become, or have the potential to become, significant competitors of commercial banks. See, e.g., Midwest Financial Group, 75 Federal Reserve Bulletin 386 (1989); National City Corporation, 70 Federal Reserve Bulletin 743 (1984). Thus, the Board regularly has included thrift deposits in the

Banking Markets without Divestitures. Consummation of the proposal without divestitures would be consistent with Board precedent and the DOJ Guidelines in six banking markets: Fairfield Area and New London, Connecticut; West Palm Beach, Florida; Portland, Maine; Greenfield, Massachusetts; and Manchester, New Hampshire.27 After consummation of the proposal, the Fairfield, New London, and West Palm Beach banking markets would remain moderately concentrated as measured by the HHI. In the Portland, Greenfield, and Manchester banking markets, banking resources would be highly concentrated as measured by the HHI, but the increase in concentration would be within the DOJ Guidelines and a large number of competitors would remain in each market. Moreover, all of the latter three markets are located in metropolitan areas that are regionally important and are considered generally attractive for entry.

Banking Markets with Proposed Divestitures. Fleet has proposed divestitures in the remaining twelve markets in which Fleet and BankBoston compete: Hartford, New Haven, Torrington, and Waterbury, Connecticut; Boston,

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calculation of market share on a 50-percent weighted basis. See, e.g., First Hawaiian, Inc., 77 Federal Reserve Bulletin 52 (1991).

26 Under the DOJ Guidelines, 49 Federal Register 26,823 (1984), a market is considered unconcentrated if the post-merger HHI is less than 1000, moderately concentrated if the post-merger HHI is between 1000 and 1800, and highly concentrated if the post-merger HHI is more than 1800. The Department of Justice has informed the Board that a bank merger or acquisition generally will not be challenged (in the absence of other facts indicating anticompetitive effects) unless the post-merger HHI is at least 1800 and the merger increases the HHI by more than 200 points. The Department of Justice has stated that the higher than normal HHI thresholds for screening bank mergers for anticompetitive effects implicitly recognize the competitive effect of limited-purpose lenders and other nondepository financial institutions.

27 The effects of the proposal on the concentration of banking resources in these markets are described in Appendix C.

Cape Cod, Fall River, New Bedford, Springfield, and Worcester, Massachusetts; and Newport and Providence, Rhode Island. 28 As discussed above, these divestitures include a total of more than 300 branches, which account for more than $13 billion in deposits.29 In each of these markets, Fleet proposes to divest a significant portion of the holdings of either Fleet or BankBoston.30 After accounting for the proposed divestitures, consummation of the proposal would be

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28 The effects of the proposed merger and divestitures on the concentration of banking resources in these markets are described in Appendix D.

29 In each market in which Fleet has committed to divest offices to mitigate the anticompetitive effects of the proposal, Fleet has committed to execute, before consummation of the proposal, sales agreements for the proposed divestitures with a purchaser determined by the Board to be competitively suitable, and to complete the divestitures within 180 days of consummation of the proposal. Fleet also has committed that, if it is unsuccessful in completing any divestiture within 180 days of consummation, it will transfer the unsold branch(es) to an independent trustee that is acceptable to the Board and will instruct the trustee to sell the branch(es) promptly to one or more alternative purchasers acceptable to the Board. See BankAmerica Corporation, 78 Federal Reserve Bulletin 338 (1992); United New Mexico Financial Corporation, 77 Federal Reserve Bulletin 484 (1991). Fleet also has committed to submit to the Board, before consummation of the proposal, an executed trust agreement acceptable to the Board stating the terms of these divestitures.

30 Many commenters expressed concern about the divestiture process, particularly with regard to the role that community banks should play in that process. Numerous commenters believed that community banks should be allowed to purchase a portion of the divested branches in order to increase their market presence and ensure local control of lending and investment decisions. Other commenters believed that all the divested assets should be transferred to a large banking organization that could immediately serve as a viable competitor for the combined organization, especially with regard to competition for lending to mid-sized businesses. As noted above, the proposed divestitures involve the sale of a portion of branches in Massachusetts to community banks and the sale of the vast majority of assets and branches to a large out-of-market competitor. The BHC Act charges the Board with reviewing and acting on the competitive effects of the proposal submitted by the applicant, without regard to whether alternative proposals might also meet the competitive standards in the Act.

consistent with Board precedents and the DOJ Guidelines in all twelve markets in which Fleet has proposed divestitures. Moreover, a large number of competitors would remain in each of these markets, and the markets, many of which are in large metropolitan areas, are generally attractive for entry.

C. Views of Other Agencies and Conclusion

The Department of Justice has conducted a detailed review of the proposal and advised the Board that, in light of the proposed divestitures, consummation of the proposal likely would not have a significantly adverse effect on competition in any relevant banking market. The Office of the Comptroller of the Currency ("OCC") and the Federal Deposit Insurance Corporation ("FDIC") have been afforded an opportunity to comment and have not objected to consummation of the proposal.

As discussed in this order, the Board has considered the competitive effects of the proposal in each banking market in light of a number of factors that measure or influence the likely competitive effects of the proposed transaction. These factors include the relative market share that would be controlled by the combined organization in each relevant banking market; the level of market concentration and change in concentration that would result from the transaction; the number, size, and relative resources of competitors remaining in each market; and the structure, characteristics, and attractiveness of each market. The Board also has carefully weighed the divestitures proposed by Fleet to address the potential competitive effects in various markets.

After carefully reviewing all the facts of record, including public comments on the competitive effects of the proposal, and for the reasons discussed in this order and its appendices, the Board concludes that consummation of the proposal would not be likely to result in a significantly adverse effect on competition or on the concentration of banking resources in any of the 18 markets in which Fleet and BankBoston both compete, or in any other relevant banking market.31 Accordingly, based on all the facts of record and subject to completion of the proposed divestitures, the Board has determined that competitive factors are consistent with approval of the proposal.

Financial, Managerial, and Other Supervisory Factors

The Board has carefully considered the financial and managerial resources and future prospects of Fleet, BankBoston, and their respective subsidiary banks in light of all the facts of record. In considering the financial and managerial factors, the Board has reviewed relevant reports of examination and other information prepared by the Reserve Bank and other federal financial supervisory agencies. The Board also has reviewed information on the programs that Fleet and BankBoston have implemented to prepare their systems for the Year 2000, including confidential examination and supervisory information assessing the efforts of the two banking organizations to ensure Year 2000 readiness, both before and after consummation of the proposed transaction.

In evaluating financial factors in expansion proposals by bank holding companies, the Board consistently has considered

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31 One commenter expressed concern about the method by which the Board determines appropriate levels of divestitures and the Board's use of mitigating factors. The commenter presented an alternative approach to assess the competitive effects of the merger proposal, which the commenter has presented to the Board in other merger proposals. For the reasons previously stated by the Board, the Board concludes that its current approach provides a more complete economic analysis of the competitive effects of a proposal in a local banking market than the approach suggested by the commenter. See NationsBank Corporation, 84 Federal Reserve Bulletin 129 (1998); see also Norwest Corporation, 84 Federal Reserve Bulletin 1088 (1998).

capital adequacy to be an especially important factor.32 The Board notes that Fleet and BankBoston and their subsidiary banks are well capitalized and would remain so on consummation of the proposal. Both institutions have reported strong earnings. The Board has considered that the proposed merger is structured as a stock-for-stock transaction and would not increase the debt service requirements of the combined company.

The Board also has considered the managerial resources of the entities involved and the proposed combined organization. Fleet, BankBoston, and their subsidiary depository institutions currently are well managed, and the combined organization would have appropriate risk management processes in place. Senior management of the combined organization would draw from the senior executives of Fleet and BankBoston, based on the individual management strengths of each company. Senior executives of the two companies also have formed a transition team to plan and manage the integration of the bank holding companies and their subsidiaries. Fleet and BankBoston have past experience with merger transactions and have indicated that they are devoting significant resources to address all aspects of the merger process.33

In addition, the Board has considered other aspects of the financial condition and managerial resources of the two organizations, including the Board's extensive supervisory experience with Fleet and BankBoston; recent revisions by BankBoston of its management of operating risks; plans for integration of the two companies; plans for achieving Year 2000 readiness; and records of compliance with relevant banking laws.

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32 See, e.g., Banc One Corporation, 84 Federal Reserve Bulletin 961 (1998); see also, Norwest Corporation, 84 Federal Reserve Bulletin 1088 (1998).

33 One commenter questioned whether Fleet has exercised due diligence in reviewing the operations of BankBoston. Based on all the facts of record, the Board considers the managerial resources of Fleet to be appropriate for Fleet to evaluate the proposed acquisition.

Based on all the facts of record, including a careful review of the comments received, the Board concludes that considerations relating to the financial and managerial resources and future prospects of Fleet, BankBoston, and their respective subsidiaries are consistent with approval of the proposal, as are the other supervisory factors that the Board must consider under section 3 of the BHC Act.

Convenience and Needs Considerations

In acting on the proposal, the Board also must consider the convenience and needs of the communities to be served and take into account the records of the relevant depository institutions under the CRA. The CRA requires the federal financial supervisory agencies to encourage financial institutions to help meet the credit needs of local communities in which they operate, consistent with their safe and sound operation, and requires the appropriate federal supervisory authority, in evaluating bank expansion proposals, to take into account an institution's record of meeting the credit needs of the entire community, including low- and moderate-income ("LMI") neighborhoods. The Board has carefully considered the convenience and needs factor and the CRA performance records of the subsidiary depository institutions of Fleet and BankBoston in light of all the facts of record, including public comments on the proposal.

A. Summary of Public Comments Regarding the Convenience and Needs Factor

As noted above, the Board provided an extended public comment period and convened a public meeting in Boston to aid in the collection of information on the aspects of the proposed merger that the Board is required to consider under the BHC Act and other relevant statutes. Approximately 344 interested persons submitted written comments or testified at the public meeting about various aspects of the proposal and, in particular, the effect of the proposal on the convenience and needs of the affected communities and the CRA performance records of the depository institutions involved.

Approximately 97 commenters either expressed support for the proposal or commented favorably on the CRA-related activities of Fleet and BankBoston.34 Many commenters commended Fleet and BankBoston for providing affordable home mortgages and home improvement loans; offering financial and technical support to small businesses, including small businesses and micro-enterprises owned by women and minorities; sponsoring and supporting a variety of community development activities and affordable housing initiatives; and participating in a number of programs designed to assist and benefit LMI communities and individuals. The commenters praised officers and employees of Fleet and BankBoston for the service and expertise that the staff members of the two banking organizations provide to civic and community groups as board members and volunteers.35 Commenters

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34 These commenters included: (1) three members of the Rhode Island delegation to the U.S. Congress; (2) various community groups, including Dorchester Bay Economic Development Corporation, Dorchester, Massachusetts; Pine Street Inn, Boston, Massachusetts; New York Housing Partnership Development Corporation, New York, New York; Tompkins County Economic Opportunity Corporation, Ithaca, New York; National Association for the Advancement of Colored People, Portland, Maine, chapter; Urban League of Rhode Island, Providence, Rhode Island; and Manchester Neighborhood Housing Services, Manchester, New Hampshire; (3) various groups supporting the development and growth of small businesses, including The Center for Women in Enterprise, Boston, Massachusetts; Mercer County Business Association, Mercer County, New Jersey; Association of Hispanic Entrepreneurs of New Britain, New Britain, Connecticut; New Hampshire Business Development Corporation, Manchester, New Hampshire; and New York State Small Business Development Center, Farmingdale, New York; and (4) representatives of other community, civic, and nonprofit organizations based in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, and Rhode Island.

35 Some commenters supported the proposal because it would result in a large banking organization headquartered in New England, which would provide local jobs and help maintain local control over banking and investment decisions relevant to the region.

also related favorable experiences with specific programs and services offered by Fleet and BankBoston. Several owners of small businesses stated that Fleet had offered credit and technical assistance to them when other financial institutions were unwilling to do so.

Approximately 247 commenters opposed the proposal or requested that the Board approve the merger subject to conditions suggested by the commenter.36 These commenters either expressed specific concerns about the CRA performance records of Fleet and BankBoston, expressed general concerns regarding the effects of large merger proposals on the convenience and needs of the communities to be served, or expressed dissatisfaction with specific transactions involving the commenter and one of the banks involved in the proposal.37

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36 These commenters included: (1) twelve members of the Massachusetts delegation to the U.S. Congress; (2) a number of state and local government officials, including the governors of Massachusetts and New Hampshire; the state treasurer of Connecticut; the attorneys general of Connecticut and Massachusetts; the mayors of Boston and Springfield, Massachusetts; Connecticut and Massachusetts state legislators; and members of the Boston City Council and the New York City Council; (3) various community groups, including the national office of the Association of Community Organization for Reform Now ("ACORN") and regional offices of ACORN in Dorchester, Mattapan, and Roslindale, Massachusetts; New York, New York; and Bridgeport, Connecticut; Massachusetts Affordable Housing Alliance, Dorchester, Massachusetts; various commenters affiliated with the Massachusetts Association of Community Development Corporations, Boston, Massachusetts; Rhode Island Community Reinvestment Association, Providence, Rhode Island; Inner City Press/Community on the Move, Bronx, New York; Delaware Community Reinvestment Action Council, Inc., Wilmington, Delaware; and representatives of other community and nonprofit organizations based in Connecticut, Florida, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Texas; and (4) a number of individual customers, unions, and others.

37 Some commenters claimed, for example, that large, multistate banking organizations engage in less community oriented lending, relative to their size and total lending activities, than small banks. Commenters also feared that the

A number of the commenters opposed to the merger proposal contended that Fleet has an inadequate record of performance under the CRA, particularly in serving the banking and credit needs of LMI and minority individuals and of census tracts with predominantly LMI and minority populations.38 Commenters also criticized the lending record of Fleet, as reflected by data reported under the Home Mortgage Disclosure Act (12 U.S.C. § 2801 et seq.) ("HMDA"). Several commenters alleged that Fleet denied loan applications from minorities at a higher rate than it denied applications from white borrowers, and that outreach efforts by Fleet in LMI and minority communities did not account for this disparity.

Various commenters alleged that Fleet's lending, particularly its home mortgage lending to LMI and minority individuals, had declined in the past after Fleet acquired other banking organizations. Many of these commenters claimed that HMDA data indicated that Fleet's post-merger lending was significantly less than the pre-merger combined lending of Fleet and the institutions it acquired. These commenters feared that a similar decline in lending would occur after Fleet's proposed acquisition of BankBoston. Some commenters were further concerned, in view of the large share of housing-related lending in New England controlled by Fleet and BankBoston, that a decrease in lending by the combined organization would have a disproportionately harmful effect on the availability of loans to LMI and minority individuals and small businesses.

Many commenters also believed that BankBoston had a better record than Fleet of meeting the convenience and needs of the community, and expressed concern about the loss of the BankBoston

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combined organization would charge higher fees for and reduce the availability of certain banking services.

38 Several commenters also expressed concern about Fleet's record of serving rural communities, and one commenter alleged that Fleet redlined rural areas of New Hampshire.

organization and its expertise and products in CRA-related lending and investments. Several individual commenters were similarly concerned that Fleet would be less accommodating than BankBoston in providing customer service.

Numerous commenters expressed concern about the combined organization's CRA plans for the future.[39] Commenters also criticized Fleet's decision not to enter into community reinvestment agreements with specific community organizations and local government agencies.[40] These commenters asked the Board to require Fleet and BankBoston to provide specific details on how the combined organization would implement its CRA pledge to establish a mechanism to enforce the CRA pledge that included community representation, and to enter into detailed, verifiable, and enforceable written agreements with local community groups.

Some commenters also expressed concerns about the impact of the proposed branch divestitures on the communities served by Fleet and BankBoston. Many of these commenters feared that the sale of these branches to a large out-of-state banking organization would result in the loss of local control over lending decisions, reduced sensitivity by bank management to community needs, decreased levels of service, and higher banking and credit-related fees.[41] Several commenters stated that

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39 Commenters criticized Fleet's pledge to provide $14.6 billion toward community lending and development over the next five years as being inadequate compared to the historical level of combined community development and lending activities by Fleet and BankBoston and the asset size of the combined organization. Many commenters also asserted that Fleet's pledge lacked necessary detail and was not equitably distributed to communities outside Massachusetts.

40 Several commenters asserted that Fleet's lending and community development efforts in the past were inadequate except when Fleet worked with a community-based partner or was subject to an enforceable community reinvestment agreement.

41 Many of these commenters urged the Board to require Fleet to divest branches to community banks, and some commenters particularly recommended that a minority-owned banking organization be allowed to purchase divested branches.

certain branches that Fleet proposed to divest were critical in providing banking services to underserved LMI and minority communities or were subject to agreements to maintain services, and they sought assurances that the purchaser of these branches would not close them or reduce their services.42 Other commenters feared job losses at the divested branches after their sale.

B. CRA Performance Examinations

The Board has long held that consideration of the convenience and needs factor includes a review of the records of the relevant depository institutions under the CRA. As provided in the CRA, the Board has evaluated the convenience and needs factor in light of examinations of the CRA performance records of the relevant institutions by the appropriate federal financial supervisory agency.43

All of Fleet's subsidiary banks received "satisfactory" ratings at the most recent examinations of their CRA performance.44 In particular, Fleet National

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42 Several commenters asserted that a seasonal branch of BankBoston located in Woods Hole, Massachusetts, did not provide adequate service, and requested that the Board require Fleet to divest the branch to a community bank or close the branch and allow another bank to operate full-time on the premises.

43 The Interagency Questions and Answers Regarding Community Reinvestment provide that an institution's most recent CRA performance evaluation is an important consideration in the applications process because it represents a detailed on-site evaluation of the institution's overall record of performance under the CRA by the appropriate federal financial supervisor. 64 Federal Register 23,618 and 23,641 (1999).

44 Fleet Bank, N.A., Jersey City, New Jersey ("Fleet-NJ"), was examined by the OCC for CRA performance, as of February 1998; Fleet Bank of New Hampshire, Manchester, New Hampshire ("Fleet-NH"), was examined by the Reserve Bank, as of April 1998; Fleet Bank of Maine, Portland, Maine, was examined by the Reserve Bank, as of April 1998; and Fleet Bank, F.S.B., Boca Raton, Florida, was examined by the Office of Thrift Supervision, as of April 1998. The OCC has not yet

Bank, Providence, Rhode Island ("Fleet Bank"), which represents approximately 73 percent of the assets controlled by Fleet, received a "satisfactory" rating from the OCC, as of February 1998. BankBoston's lead subsidiary bank, BankBoston, N.A., Boston, Massachusetts, which represents approximately 90 percent of the assets controlled by BankBoston, received an "outstanding" rating from the OCC at its most recent examination, as of December 1996.45 BankBoston's other subsidiary bank, Bank of Boston-Florida, N.A., Boca Raton, Florida, received a "satisfactory" rating for CRA performance from the OCC, as of December 1996.46

C. CRA Policies and Programs

Fleet has indicated that achieving outstanding CRA ratings for all of its subsidiary banks would be a corporate goal for the combined organization. To reach this goal, Fleet has indicated that the combined organization would maintain the respective strengths and adopt the best CRA policies, products, and

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examined Fleet Bank-Rhode Island, N.A., Providence, Rhode Island, a credit card bank established by Fleet in November 1997.

45 At the time of this examination, the bank was named The First National Bank of Boston ("FNB Boston"). BankBoston changed the name of the bank and merged several banks into FNB Boston after this examination. Each bank that was merged into FNB Boston also had received an "outstanding" rating for CRA performance at its last examination before the merger. The names of the banks and the dates of their last examinations are: Bank of Boston Connecticut, Hartford, Connecticut ("BankBoston-CT"), examined by the FDIC, as of June 1994; Rhode Island Hospital Trust National Bank, Providence, Rhode Island ("Hospital Trust"), examined by the OCC, as of December 1996; BayBank, N.A., Boston, Massachusetts, examined by the OCC, as of March 1996; and BayBank NH, National Association, Nashua, New Hampshire, examined by the OCC, as of May 1994. The most recent CRA performance examinations for FNB Boston, BankBoston-CT, and Hospital Trust are discussed separately in this order. See also Bank of Boston Corporation, 82 Federal Reserve Bulletin 856, 859 (1996).

46 BankBoston Maine, N.A., Portland, Maine, provides only cash management services to customers of BankBoston, N.A., and is not subject to the CRA.

practices, of Fleet and BankBoston and honor and reaffirm their respective commitments in CRA-related activities. For example, Fleet Boston proposes to adopt the community development policies and programs of BankBoston, including in particular the First Community Bank model for community banking and the BankBoston Development Company model for community development lending and investments. The Board expects that Fleet Boston would implement policies and programs that help to address the credit and banking needs of local communities, including LMI neighborhoods.

D. Fleet's CRA Performance Record

Fleet Bank Overview. Fleet Bank operates in Massachusetts, Connecticut, portions of upstate New York, and Rhode Island.[47] During 1996 and 1997, the bank made 53,305 HMDA-reported loans, totaling $4.4 billion, and 27,827 loans to small businesses in amounts less than $1 million ("small business loans"), totaling $4.2 billion, in its assessment area. Examiners considered Fleet Bank's lending performance to be particularly strong in making home purchase loans. In every state and in most metropolitan statistical areas ("MSAs") in its assessment area, the percentage of the bank's loans made in LMI census tracts was greater than the percentage of owner-occupied housing located in these census tracts and the percentage of home purchase loans made in these census tracts by lenders in the aggregate. The bank employed several programs to provide affordable home mortgage loans, including (1) Fleet's proprietary Affordable Housing program,

47 At the time of its most recent CRA performance examination, the bank owned several subsidiaries, of which the most significant for purposes of considering its CRA performance was Fleet Mortgage Group, Inc., Columbia, South Carolina ("Fleet Mortgage"). In addition, Fleet owned Fleet Community Development Corporation, Providence, Rhode Island ("Fleet CDC"), which engaged in community development lending and investments. Home mortgage loans by Fleet Mortgage and loans and investments by Fleet CDC and Fleet Bank's affiliated banks that were made in Fleet Bank's assessment area were included by Fleet Bank for CRA purposes, and thus were included by the OCC in its examination of Fleet Bank's CRA performance.

which featured reduced downpayment requirements, flexible underwriting standards, and no mortgage insurance requirement for borrowers unable to meet traditional secondary market credit standards; (2) local partnership programs offered in cooperation with organizations such as ACORN, Neighborhood Assistance Corporation of America ("NACA"), and Hartford Areas Rally Together ("HART"), which were similar to Fleet's proprietary programs but offered more flexible underwriting standards and extensive financial and homebuyer counseling;48 (3) federal government-supported secondary market programs, such as Federal Housing Administration ("FHA") and Veterans Administration ("VA") loans and the Federal National Mortgage Association ("Fannie Mae") Community Home Buyers program, which featured reduced downpayment requirements, flexible underwriting standards, and flexible financing of closing costs; and (4) state and local government-supported programs, such as the Jumpstart program in Massachusetts, New York, and Rhode Island, which combined a first mortgage loan from a state housing finance authority with an unsecured loan from Fleet Bank at the same rate to cover downpayment or closing costs.49 Consumer lending by Fleet Bank also was distributed in a manner that generally corresponded to the distribution of the population, including LMI borrowers, in the bank's service area.

For small business lending, examiners reported that Fleet Bank was particularly active in Massachusetts and Connecticut,

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48 Several commenters affiliated with ACORN and NACA stated that their partnerships with Fleet and BankBoston had allowed underserved LMI and minority individuals to obtain mortgage loans, which in turn had promoted economic growth and stability in poorer neighborhoods. However, these individuals criticized Fleet's decision not to renew the ACORN and NACA partnerships, and opposed the proposal on this basis.

49 Under the Jumpstart program, Fleet Bank made 2,173 loans in 1998, totaling $254.1 million, 1,950 loans in 1997, totaling $202.7 million and 3,338 loans in 1996, totaling $325.9 million.

where the percentage of the bank’s small business loans in LMI census tracts was generally 3 percent to 4 percent higher than the comparable percentage for lenders in the aggregate. Through the Fleet INCITY Business and Entrepreneurial Services Group, established to support businesses in LMI areas, Fleet Bank offered small business loans featuring reduced documentation, flexible underwriting, and no minimum loan amount. Fleet CDC also supported small businesses through low-interest loans, longer-term loans, and equity investments in financial intermediaries and nonprofit organizations that focused their efforts on small businesses located in LMI areas. For example, in 1998, Fleet CDC made a $1 million investment in the Boston Community Venture Fund for equity investments in small businesses in LMI areas. Fleet Bank also was an active lender through Small Business Administration (“SBA”) programs. Fleet was the largest SBA lender in New England overall in 1997 and the second largest in 1998. In 1999, Fleet reported that it began to offer a new SBA express approval loan program, and the bank made more SBA loans in the first six months of 1999 than it made in all of 1998.

Examiners also judged Fleet Bank’s performance in making community development investments to be particularly strong. In 1996 and 1997, the bank made $253 million of qualified investments and grants and committed to make an additional $269 million. The bank’s two largest forms of investment consisted of the purchase of $220 million of bond anticipation notes to assist state and local governments in funding efforts to revitalize and stabilize economically depressed areas and the purchase of $60 million of low-income housing tax credits. In addition, in 1997, Fleet Bank entered into an agreement with Neighborhood Housing Services of America (“NHSA”) to purchase up to $10 million of affordable first and second mortgages and home improvement loans originated and underwritten by NHSA’s local affiliates in Fleet’s assessment area. Fleet Bank made an initial purchase under this program of $750,000 in 1998. The bank also committed to make grants of $1.4 million of working capital over three years to NHSA's affiliated NeighborWorks Organizations to support neighborhood revitalization and affordable housing development. In addition, in 1997 Fleet Bank made a grant of $200,000 payable over three years to Local Initiatives Support Corporation to support the participation of seven rural New England community development corporations in Maine, Massachusetts, New Hampshire, and upstate New York in its programs.

According to examiners, Fleet Bank's branch network and ATMs and its alternative delivery systems provided consistent service and reached consumers in all geographic areas, and the products and services that the bank offered were designed to serve all consumers, including LMI individuals. For example, the bank's Basic Checking program allowed up to eight transactions per month for a minimal opening deposit and small monthly fee. Approximately 600 companies participated in the bank's WorkPlace Banking program, which provided basic banking services at reduced cost to approximately 53,000 households, including LMI households.[50] Fleet Bank also offered multilingual services through its branches, ATMs, and telephone banking system, which enhanced access to services for certain minority communities, and

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50 Several commenters expressed concern that Fleet would increase fees for banking products and services or eliminate or alter banking products and services after consummation of the proposal. Fleet and BankBoston offer a full range of affordable banking products and services, and Fleet has indicated that it would offer products and services to its customers selected from the current offerings of both organizations. In addition, Fleet and BankBoston participate in the "Basic Banking for Massachusetts" program that offers low-cost checking and savings accounts to low-income customers, and Fleet has announced its goal to open 42,000 new accounts under this program over the next five years. Moreover, although the Board has recognized that banks help to serve the banking needs of communities by making basic services available at nominal or no charge, the CRA does not require an institution to provide any specific types of products or services or limit the fees it charges for them.

offered seminars for first-time LMI homebuyers and small business owners.

Massachusetts. Examiners commended Fleet Bank for its HMDA-reported lending in LMI areas. During the examination period, the bank made 41 percent of its home purchase loans to LMI borrowers, which exceeded the percentage of LMI households in the general population. The bank's market share among LMI borrowers and in LMI areas significantly exceeded its overall market share. Fleet Bank's housing-related loans to LMI individuals fluctuated, however, decreasing 25.3 percent from 1996 to 1997, while its overall housing-related loans decreased 13.7 percent, and increasing 21.7 percent from 1997 to 1998 while its overall lending increased 48.7 percent.51

Examiners also found that Fleet Bank's distribution of small business loans compared favorably with that of lenders. In 1996 and 1997, the bank made 10,414 small business loans, totaling $1.6 billion, including 6,827 loans, or 66 percent of the total, with principal amounts of less than $100,000. The bank also made 5,049 loans, totaling $345 million, to businesses with annual gross revenues of less than $1 million ("loans to small business"), including 4,403 loans, or 64 percent of the total, to businesses with annual gross revenues of less than $100,000. The percentage of loans to small business that the bank made in LMI areas corresponded closely to the percentage of small businesses located in these areas and exceeded the percentage of loans to these small businesses by lenders in the aggregate. In addition, Fleet Bank made 48 percent of its consumer loans to LMI households, while LMI households constituted 38 percent of all households in the state.

In Massachusetts, Fleet Bank made 19 community development loans during 1996 and 1997, totaling $157 million, including 11 loans, totaling $144.2 million, to support the development of

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51 For lenders in the aggregate, lending to LMI individuals increased from 1996 to 1997 and exceeded Fleet's increase from 1997 to 1998.

affordable housing;[52] seven loans, totaling $11.6 million, to organizations that promote economic development by financing small businesses; and one loan for $1.2 million to help provide medical and social services to LMI individuals. Examiners also commended Fleet Bank for its qualified community development investment in the state. During 1996 and 1997, the bank invested $220.9 million and provided grants of $3.2 million, and committed to invest an additional $236.5 million and provide grants of an additional $3.5 million. In 1998, the bank made 24 community development loans, totaling $97 million, and several investments, including an investment of $41 million in the Massachusetts Housing Equity Fund, an equity investment pool managed by MHIC to invest in community development projects. Fleet also committed a total of $50 million in loans, grants, technical assistance, and services over 10 years to support the City of Boston Empowerment Zone designated by the Department of Housing and Urban Development ("HUD").

Examiners considered the distribution of Fleet Bank's branches among LMI census tracts to be good. The bank's products, services, and business hours were consistent at all locations, and the array of products and services helped to meet the needs of consumers and businesses across all geographic areas and income levels.[53]

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52 In 1998, Fleet Bank renewed its $20.5 million participation in a $52 million loan pool managed by the Massachusetts Housing Investment Corporation ("MHIC") to support the purchase, rehabilitation, and new construction of rental, cooperative, and single-room-occupancy affordable housing.

53 Two commenters alleged that Fleet made home purchase and home improvement loans to minority and LMI borrowers in the Boston area in excess of the fair market value of the property, which resulted in excessive debt service and an increased risk of loan default and foreclosure. Fleet has replied that it has taken extensive measures to verify the fair market value of mortgaged property, including imposing strict qualification standards on independent appraisers and requiring loan underwriters to review all appraisals submitted. Fleet Bank also requires additional loan reviews and property inspections to verify the fair market value for all multi-

Connecticut. Examiners found the distribution of Fleet Bank's housing-related, consumer, and small business lending in Connecticut to reflect a reasonable penetration of all areas of the state. Low-income and moderate-income borrowers received 8 percent and 17 percent, respectively, of the bank's HMDA-related loans, which closely matched lending to LMI borrowers by lenders in the aggregate. For home purchase lending, the bank's market share of loans to low-income borrowers and in low-income census tracts was twice the bank's overall share of home purchase loans, and its market share in moderate-income census tracts was 1.6 times its overall market share. Twenty-nine percent of Fleet Bank's home mortgage loans were made to moderate-income borrowers in 1996, and 23 percent in 1997, while moderate-income households constituted only 19 percent of total households in Connecticut.

In 1998, the bank's housing-related loans to LMI borrowers increased 13 percent. Fleet also increased its affordable mortgage lending in Connecticut in 1998. Affordable mortgage loans increased from 458 in 1997, totaling $42.6 million, to 534 in 1998, totaling $52.6 million. Fleet committed an additional $3 million in 1998, for a total commitment of $14 million, to the HART first-time homebuyers program, which offers below-market interest rate loans to low-income homebuyers. The bank also made 52 percent of its consumer loans in the state to LMI borrowers.

Examiners reported that Fleet Bank made 5,752 small business loans in Connecticut during 1996 and 1997, totaling $863 million, including 3,973 loans, or 71 percent of the total,

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family properties that are sold within two years of a prior sale for 20 percent more than the prior sale and for all multi-family properties regardless of price in certain Boston area neighborhoods. Other commenters requested the Board to consider predatory lending practices allegedly engaged in by Fleet's subprime lending subsidiaries in the past. The Board has considered these allegations in light of the entire record of this case and the findings on these matters made by the Board in previous cases. See Fleet Financial Group, Inc., 82 Federal Reserve Bulletin 50 (1996).

with principal amounts of less than $100,000. The bank's loans to small business constituted 55 percent of all its commercial loans, compared with 43 percent for lenders in the aggregate. The bank also made a higher percentage of its small business loans in LMI census tracts than did lenders in the aggregate.54 In 1998, the bank made 2,059 small business loans, totaling $186.2 million, including 414 loans totaling $36.3 million in LMI census tracts, which corresponded closely to the percentage of small business loans made by lenders in the aggregate in LMI census tracts.

The bank made eight community development loans in the state, including six loans, totaling $11 million, to support the development of affordable housing, and two loans, totaling $5.5 million, to help provide medical and social services to LMI individuals. Examiners commended Fleet Bank for the level of its investment in the state to support community development. The bank invested $5.5 million and committed to invest an additional $6.4 million, and made grants of $979,000 and committed to make grants of an additional $979,000. In 1998, Fleet Bank purchased $25 million of mortgage-backed, taxable revenue bonds issued by the Connecticut Housing Finance Authority to fund its affordable mortgage loans.55

Examiners found that the distribution of Fleet Bank's branches in LMI census tracts compared favorably with the percentage of LMI census tracts in the state and exceeded the percentage of the statewide population that resided in these areas.

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54 Fleet states that during 1997 and 1998 Fleet Bank was the most active lender in the Connecticut Development Authority's Urbank program to provide small loans and technical assistance to small- and mid-sized businesses in urban areas.

55 Some commenters expressed concern that Fleet Bank did not offer a sweep feature on lawyers' trust accounts to permit the interest earned on these accounts to be collected to fund legal service organizations. Fleet stated that it will make this feature available in Connecticut in the future.

Upstate New York.56 Examiners considered Fleet Bank's volume of lending in upstate New York to be consistent with its size and scope of operations. During the examination period, it originated 17,117 HMDA-reported loans, totaling $953 million. Examiners reported, however, that between 1996 and 1997 the bank's HMDA-reported lending decreased by 39 percent, which was attributable in part to management and operational changes at Fleet Mortgage and the resulting turnover among loan originators.57

The geographic distribution of lending by Fleet Bank was considered reasonable by examiners. However, in several parts of upstate New York, the bank's market share of HMDA-reported loans to LMI borrowers was less than its market share of HMDA-reported loans to all borrowers.58 Examiners also reported that the percentage of consumer loans that the bank made in LMI census tracts was lower than the percentage of the population residing in these areas.

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56 This assessment area includes the Albany, Buffalo, Duchess County, Elmira, Glens Falls, Jamestown, Newburgh, Rochester, Syracuse, and Utica Metropolitan Statistical Areas ("MSAs") and the non-MSA areas of Allegany, Cattaraugus, Clinton, Columbia, Cortland, Essex, Franklin, Fulton, Greene, Jefferson, Lewis, Otsego, Seneca, Schuyler, Steuben, Sullivan, St. Lawrence, Tompkins, Ulster, Wyoming, and Yates Counties.

57 Based on HMDA data reported by Fleet, Fleet Bank's total loan originations increased 56 percent from 1997 to 1998, and the percentage of the bank's loan originations to LMI borrowers and in LMI areas increased slightly. However, the percentage of the bank's housing-related loans to LMI borrowers and in LMI areas in 1998 remained lower than the percentage for lenders in the aggregate.

58 Examiners attributed this disparity to the bank's large volume of refinancing among middle- and upper-income borrowers and the scarcity in some areas of affordable housing and financial assistance programs. However, examiners also noted disparities in originating home improvement loans. For example, in the Buffalo MSA, Fleet Bank originated 10.8 percent of all home improvement loans in the market in 1996, but it originated only 2.6 percent in low-income census tracts and only 3.4 percent in moderate-income census tracts.

During the examination period, the bank made 8,207 small business loans, totaling $1.2 billion. The number of small business loans decreased 15 percent from 1996 to 1997, but increased 23 percent from 1997 to 1998, and loans to small business increased 43 percent. Examiners found that the geographic distribution of these loans generally corresponded to the distribution of small businesses in upstate New York, and that the bank made a higher percentage of its small business loans in LMI census tracts than the comparable percentage for lenders in the aggregate.

Examiners commended Fleet Bank for its level of investment in upstate New York. The bank focused on identified credit needs and took a leadership role in many of the organizations it supported.59 During the examination period, Fleet Bank made investments of $9.4 million and grants of $1.1 million, and committed to make additional investments of $9.5 million and additional grants of $1.3 million.60

Fleet Bank located 22 percent of its upstate New York

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59 The bank committed $5.3 million to and is the largest investor in Capital Affordable Housing Funding Corporation, a partnership in Albany of banks, community organizations, and local government to help finance the construction of affordable housing and the purchase of affordable housing by LMI households.

60 The bank invested $200,000 during the examination period and invested an additional $100,000 in 1998 in Ibero-American Investors Corporation, a specialized small business investment company in Rochester that assists minority- and women-owned businesses. Fleet Bank also made a grant of $75,000 during the examination period and made a construction loan of $300,000 in 1998 to Frederick Douglass Community Development Corporation in Rochester to help fund the construction of 21 affordable single family homes and a senior citizen living center. In 1998, Fleet Bank also served as lead bank for a $1.8 million line of credit to support the redevelopment of a closed military base in Rome; made a $300,000 mortgage loan to fund the construction of a round-the-clock day care center and child care training center in Rochester; and made a $75,000 unsecured loan to Buffalo Neighborhood Housing Services to help fund a $300,000 revolving fund for the purchase, rehabilitation, and resale of affordable housing for low-income homebuyers.

branches in LMI census tracts, which approximated the percentage of LMI census tracts among all census tracts in the area and exceeded the percentage of the population residing in LMI census tracts.

Rhode Island.61 Examiners found that Fleet Bank's housing-related and consumer lending was widely distributed and demonstrated a high level of responsiveness to the credit needs of the state. During 1996 and 1997, the bank originated or purchased 5,818 HMDA-reported loans, totaling $471 million, and the percentage of its home mortgage lending in LMI census tracts was consistent with the percentage of owner-occupied housing units in these areas. In 1996, the bank made 11 percent of all home purchase loans made in moderate-income census tracts by lenders in the aggregate, compared with the bank's market share of 7 percent for all home purchase loans. The bank also made 8.3 percent of its home purchase loans to low-income borrowers, compared with 3.9 percent for lenders in the aggregate, and 26.6 percent to moderate-income borrowers, compared with 17.3 percent for lenders in the aggregate.62

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61 The number and dollar amount of loans made during the examination period include a small number of loans in the Connecticut portion of the New London-Warwick MSA. Percentage calculations are based solely on loans in the Providence-Fall River MSA, which includes a small number of loans in the Massachusetts portion of this MSA.

62 Some commenters asserted that Fleet's mortgage servicing and collection practices in Rhode Island were inflexible and resulted in an unusually high default rate among LMI borrowers, as indicated by Fleet's loss mitigation record for FHA loans monitored by HUD. Fleet has noted that its loss mitigation record has improved each year since 1996, and that in 1997 it established Fleet Collection and Recovery Service ("FCRS") to manage its Affordable Housing program portfolio loans. According to Fleet, FCRS collectors are trained to work with LMI borrowers and are able to provide extensive financial counseling services and references to community organizations for additional assistance. Fleet also has stated that its record of transferring delinquent loans to third parties is consistent with lending industry standards.

More recent HMDA data indicate a significant increase in housing-related lending by the bank. From 1997 to 1998, loan applications increased 66 percent. Affordable mortgage loans also increased from 260 loans originated in 1997, totaling $23.3 million, to 310 loans in 1998, totaling $31.3 million. In LMI census tracts, however, HMDA-reported applications decreased. Loans made in LMI census tracts decreased from 8.8 percent of the bank's housing-related loans in 1997 to 5.6 percent in 1998.

Examiners considered Fleet Bank's distribution of small business loans to be good. During 1996 and 1997, the bank made 2,980 small business loans, totaling $429 million. Approximately 60 percent of the bank's commercial loans were made to small businesses in 1996, compared with 52 percent by lenders in the aggregate. Fleet Bank also generally made a higher percentage of its small business loans and loans to small business to borrowers in LMI census tracts than lenders made in the aggregate. In 1998, the bank made 6.8 percent of its loans to small business in LMI census tracts, compared with 3.7 percent by lenders in the aggregate. The bank also made 37 SBA loans, totaling $11.8 million, in 1998.

Fleet Bank made three loans during the examination period, totaling $600,000, to support the development of affordable housing for LMI households in the Providence-Fall River MSA, and three loans, totaling $6.5 million, to organizations that promoted economic development by providing financing to small businesses. During the examination period, the bank also helped to establish the first low-income community-based credit union in Rhode Island, and made a special deposit of $200,000 for three years at a nominal interest rate to help fund its operations. The bank donated three parcels of real estate, valued at $562,000, to community development organizations and made additional grants to such groups of $424,000 and qualified investments of $10 million. In 1998, the bank made a

$500,000 investment in the Business Development Company of Rhode Island to fund equity investments in start-up companies.

Overall, examiners noted that the bank's branches provided reasonable access to banking services in all geographical areas and to all income levels, including LMI census tracts and LMI individuals. The bank's distribution of branches was found by examiners to differ slightly, however, from the distribution of the population, with 19 percent of all branches in LMI census tracts compared with 26 percent of all census tracts designated as LMI areas and 22 percent of the population in the service area residing in these census tracts. Fleet Bank's branches in LMI census tracts had the same hours of operation as its branches in other census tracts in Rhode Island.

Fleet-NH. Examiners found that Fleet-NH was responsive to the credit needs of its assessment area in New Hampshire and had a satisfactory record of lending in all geographical areas, including LMI areas, and serving all borrowers, including LMI borrowers. During the examination period, the bank made 2,139 HMDA-reported loans, totaling $117.4 million, of which 23 percent were made to LMI households. The percentage of HMDA-reported loans that the bank made to LMI borrowers and in LMI census tracts approximated the percentage of LMI borrowers in the population statewide and the percentage of LMI census tracts in the state and also was consistent with the corresponding lending statistics for lenders in the aggregate.[63] In 1998, Fleet-NH made 1,892 HMDA-reported loans, a 79 percent increase from 1997. From 1997 to 1998, loans to LMI individuals increased 24 percent, and loans in LMI census tracts increased 60 percent.

Consumer lending also was reasonably distributed among borrowers and census tracts at all income levels. In 1997 and

63 Almost all the lending occurred in moderate-income census tracts because less than 1 percent of the state's population and only 180 owner-occupied housing units were in low-income census tracts.

the first quarter of 1998, the percentage of consumer loans made by Fleet-NH to LMI households exceeded their percentage of the population in the service area.

Fleet-NH used the Fleet INCITY program, partnership programs, and government-sponsored programs to provide affordable home mortgage and consumer loans. Under the Fleet INCITY Affordable Housing program, the bank made 60 loans, totaling $4.7 million, during the examination period. The bank also funded 30 below-market interest rate loans to low-income borrowers, totaling $2.3 million, that were made by Manchester Neighborhood Housing Services ("Manchester NHS") and French Hill Neighborhood Housing Services ("French Hill NHS") as part of Fleet's $10 million commitment to NHSA. In 1998, the bank made 130 total affordable mortgage loans, totaling $12.5 million.

Fleet-NH made 1,029 small business loans, totaling $114.3 million, in the state during the examination period. Examiners found that the geographical distribution of these loans compared favorably with the percentage of the state's population that resided in LMI census tracts. Examiners favorably noted that all of Fleet-NH's business loans in the state were to small businesses, and that more than 76 percent of the bank's business loans were in principal amounts of less than $100,000, which was consistent with the examiners' profile of businesses in New Hampshire. In 1998, Fleet-NH made 919 small business loans, totaling $80.9 million. Although the number of small business loans declined from 1996 through 1998, the percentage of these loans made in LMI census tracts remained consistent with the percentage of LMI census tracts in the state and the percentage of small business loans in LMI census tracts by lenders in the aggregate.

Examiners also judged Fleet-NH to be an active community development lender. During the examination period, the bank made loans or entered into loan commitments, totaling $12 million, to support community development. Most of these funds were allocated to statewide affordable-housing loan pools and community partnerships. For example, the bank provided $6 million to a $30 million loan pool administered by the New Hampshire Community Reinvestment Coalition to help finance multifamily housing projects. At the time of the examination, the bank had contributed $3 million to the loan pool, which totaled $12 million, and had financed 11 affordable housing projects that had developed 342 units of affordable housing. An affiliate of Fleet-NH also provided construction financing for three of the projects. In addition, the bank extended a $500,000 line of credit to Manchester NHS to purchase and rehabilitate affordable housing units and a $100,000 line of credit to French Hill NHS for an affordable second mortgage program, and offered counseling to LMI homebuyers in partnership with these organizations.

Examiners considered the bank’s qualified investments and grants to be responsive to the credit needs and economic development needs of the community it served. During the examination period, Fleet-NH committed to make qualified investments of $6 million. This included an investment of $2 million over two years in the New Hampshire Housing Equity Fund, a nonprofit corporation engaged in rehabilitating and constructing affordable multifamily rental housing for low-income households. Through this fund, Fleet-NH helped to finance four projects to develop 90 housing units.[64] Fleet-NH also invested in the Mariners Village project in Portsmouth, which developed 66 affordable housing units, and the Merrimack Place project in Manchester, which developed 16 affordable housing units. The bank contributed $12 million to a small business venture capital fund that made 26 investments during the examination period, including seven investments in companies in New Hampshire. In 1999, Fleet CDC invested $500,000 in an affiliate of the New Hampshire Business Development Corporation to be used to fund companies that are too small to attract private venture capital

64 In 1999, the bank invested an additional $3.1 million in the fund.

funds.

Fleet-NH's branch network was determined by examiners to be accessible throughout the bank's assessment area, including LMI census tracts. Over 20 percent of the bank's branches were located in LMI census tracts, and business hours, products, and services were comparable for all its branches. The bank's alternative delivery systems, including ATMs, 24-hour consumer and business telephone banking, and home banking through personal computers, further increased access. Several branches also offered bilingual teller assistance and ATM services in several languages.

Fleet-NJ.[65] Examiners found that Fleet-NJ lent throughout its assessment area, including LMI census tracts. During the examination period, Fleet-NJ made 13 percent of the total number of home mortgage loans made by all lenders in LMI census tracts in its assessment area, more than twice the market share of any other lender. The bank also had a commendable record of lending to LMI borrowers and, despite competition from much larger financial institutions in the market, was among the five largest lenders to LMI borrowers in the New York City CMSA during 1996 and 1997. Examiners also noted the bank's success in making consumer loans in LMI census tracts and to LMI borrowers.

Examiners reported that Fleet-NJ offered affordable home mortgage loans under proprietary and government-supported loans programs. For example, the bank's Home Mortgage Opportunity Loan program featured below-market interest rates, no points, a 5-percent downpayment requirement, and no required private mortgage

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65 Fleet-NJ designated its assessment area as all of New Jersey, New York City, and Nassau, Suffolk, and Westchester Counties, all in New York. The New York portion of the service area and the 14 northernmost counties in New Jersey are part of the New York-New Jersey Consolidated MSA ("New York City CMSA") and accounted for 91 percent of the population in the bank's assessment area, 94 percent of the bank's HMDA-reported and small business lending, and 92 percent of the bank's consumer lending.

insurance for applicants with up to 100 percent of the area's median family income. In 1998, Fleet-NJ made 1,235 loans, totaling $86 million, under this program.66 Another program featured a 5-percent downpayment requirement, of which up to 2.5 percent could be provided by grants or gifts.67

Examiners considered Fleet-NJ to be very responsive in its small business lending to the credit needs of the communities it served, notwithstanding a decline in lending volume between 1996 and 1997. During this period, the bank made 12,975 small business loans, totaling $2 billion. Three percent of the bank's small business loans were in low-income census tracts, which corresponded to the percentage of small businesses in these areas and the percentage of small business loans by lenders in the aggregate. Lending by Fleet-NJ to small businesses also was consistent with lenders in the aggregate, with 43 percent of the bank's small business loans going to firms with annual gross revenues of less than $1 million and in principal amounts of less than $100,000.68 Through the Fleet INCITY program, the bank offered small business loans featuring reduced documentation, flexible underwriting criteria, and no minimum loan amount.69

Examiners characterized Fleet-NJ as a very active community

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66 In late 1998, Fleet-NJ modified this program to focus on low-income borrowers. Between September 1998 and February 1999, the bank made 438 loans, totaling more than $50 million, under the modified program.

67 In 1998, Fleet expanded its Down Payment Assistance Grant program to provide grants up to $4,000 to homebuyers who qualify for a VA loan or a loan to be purchased by Fannie Mae.

68 During 1998, in New Jersey, small business loans by Fleet-NJ increased 16 percent, and loans to small business increased 39 percent. The percentage of these loans in low-income census tracts and moderate-income census tracts was comparable to the percentage made by lenders in the aggregate.

69 In 1998 and early 1999, Fleet-NJ made $2 million of loans in New York Chinatown to small businesses that did not satisfy automated lending guidelines.

development lender, because during the examination period the bank made 30 qualified community development loans, totaling $129 million, which resulted in the construction or rehabilitation of 2,300 affordable housing units.70 Examiners also commended Fleet-NJ for its community development investments. During the examination period, the bank made $41 million of qualified investments and grants and made commitments to provide an additional $74 million of qualified investments.71

Examiners found Fleet-NJ's branch network and alternative delivery systems, including proprietary ATMs, telephone banking, and WorkPlace Banking, to be reasonably accessible throughout the bank's assessment area and to persons of all income levels. Eighteen percent of the bank's branches were located in LMI census tracts, compared with the percentage of LMI census tracts and LMI households in the bank's service area, which is 26 percent of the area's census tracts and households. WorkPlace Banking, which offered reduced costs on checking and savings accounts, direct payroll deposit, and reduced rates on loans and ATM-based transactions, was used by 286 companies and approximately 47,700 households throughout the assessment area. Fleet-NJ also offered basic checking and savings accounts and offered to cash U.S. government benefit checks for customers and noncustomers.

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70 Included among these projects were a $13.1 million construction loan to renovate 12 apartment buildings in East Harlem, creating 133 affordable rental housing units; a $9.7 million construction loan to renovate six apartment buildings in West Harlem, creating 104 affordable rental housing units; an $8 million construction loan to rehabilitate 29 vacant city-owned brownstone residences in New York; a $3 million construction loan to a nonprofit entity to build a 61-unit apartment complex for the elderly in northern New Jersey; and a $3.5 million construction loan to build 128 units of affordable housing for elderly or disabled LMI individuals in Burlington County in southern New Jersey.

71 After the examination period, Fleet-NJ committed $50 million to fund the construction of affordable housing and $7.5 million for small business loans in the Harlem/South Bronx Empowerment Zone designated by HUD.

E. BankBoston's CRA Performance Record

FNB Boston.[72] Examiners commended FNB Boston for the level of its HMDA-reported lending in LMI census tracts and to LMI borrowers, notwithstanding an overall decrease in HMDA-reported lending by the bank during the examination period that was comparable to a decrease by lenders in the aggregate.[73] During 1998, HMDA-reported lending by FNB Boston increased. The bank made 6,143 housing-related loans, an increase of 51 percent, including 1,694 loans, or 27.6 percent, to LMI borrowers, which exceeded the percentage of LMI borrowers in the state. In consumer lending, the percentage of loans that FNB Boston made in LMI census tracts in Boston and other populated areas of the state was two to three times higher than the percentage for lenders in the aggregate in these areas.

Examiners reported that FNB Boston offered proprietary programs, and participated with several community organizations and in several government-supported programs to provide affordable mortgages.[74] Under its First Step Mortgage program, which featured flexible underwriting for first-time homebuyers with moderate income, FNB Boston made 215 loans, totaling $19 million, in 1995, and 310 loans, totaling $34.4 million, during the first nine months of 1996. Under CommunityLink, a joint partnership with NACA in Lawrence and Bethuen, which

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72 At the time of the examination, FNB Boston served all of Massachusetts, except some areas with small populations in the western part of the state.

73 During 1995 and the first nine months of 1996, the percentage of the bank's HMDA-reported loans in low-income census tracts was two to three times higher than the percentage for lenders in the aggregate, and the percentage of its loans in moderate-income census tracts was 1.5 to two times higher than the aggregate percentage. FNB Boston's HMDA-reported loans to LMI borrowers were similarly higher than the aggregate.

74 Affordable mortgage products constituted 33.6 percent, 30.5 percent, and 41.8 percent of all home mortgage loans made by FNB Boston during 1994, 1995, and the first nine months of 1996, respectively.

featured no downpayment, no closing costs, and homebuyer counseling, the bank made 53 loans, totaling $4.7 million, in 1995, and 35 loans, totaling $2.6 million, during the first nine months of 1996. In 1998, the bank made 149 loans, totaling $14 million, under this program. FNB Boston also offered a homebuyer counseling program with ACORN for home purchase and refinance borrowers. In 1998, the bank made 272 loans, totaling $11.3 million, under this program.

Under CityHOME, a partnership with the City of Boston to encourage municipal employees to purchase and rehabilitate residential properties in the city, the bank made 18 loans, totaling $1.7 million, in 1995. In 1996, the program was expanded to include the City of Worcester, and the bank made 20 loans, totaling $1.9 million, under the program during the first nine months of 1996. Nineteen loans, totaling $2.9 million, were made under this program in 1998.

The bank also participated with the Massachusetts Housing Partnership and several local municipal governments in the Soft Second program to provide below-market interest rate second mortgages in combination with a conventional first mortgage. Under this program, FNB Boston made 275 loans, totaling $11.9 million, during 1995 and the first nine months of 1996. In 1998, the bank made 347 loans, totaling $32.5 million. The bank also made 161 FHA and VA loans, totaling $17.4 million, and 20 below-market interest rate loans through the Massachusetts Housing Finance Authority, totaling $18.4 million, during the examination period.

According to examiners, FNB Boston also provided strong support to small businesses. The bank made 3,108 small business loans, totaling $414 million, in 1995 and 3,352 small business loans, totaling $476 million, during the first nine months of

1996.75 FNB Boston also was the most active SBA lender in the state and retained this ranking for the next two years. During 1995 and the first nine months of 1996, it made 325 SBA loans, totaling $24.6 million. During a 12-month period ending in September 1997, FNB Boston made 196 SBA loans, totaling $19.4 million. During the next 12 months, the bank made 142 SBA loans, totaling $9.7 million. The bank was designated an SBA preferred lender, which facilitated the review and approval of loan requests by the SBA, and was authorized under the FA$TRAK program to use the bank's documentation for certain loans up to $100,000. The bank made 103 FA$TRAK loans, totaling $3.7 million, during the first nine months of 1996. FNB Boston also participated in several local small business loan pools throughout the state, including the Massachusetts Business Development Corporation, which the bank managed. This program offered small business loans featuring flexible underwriting, and made 210 such loans, totaling $13.5 million, during 1995 and the first nine months of 1996.76 In 1998, FNB Boston made four loans, totaling $581,000, at below-market interest rates to retain businesses in and attract new businesses to downtown New Bedford.

Examiners stated that FNB Boston promoted community development primarily through its business and real estate lending. Total advances and commitments by FNB Boston during

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75 According to CRA data filed by FNB Boston after the examination, the bank made 5,991 small business loans in all of 1996, totaling $339 million; 6,627 loans in 1997, totaling $347 million; and 9,230 loans in 1998, totaling $404 million.

76 Under a co-lending program, BankBoston Development Company ("BankBoston CDC"), a subsidiary of FNB Boston, makes subordinated loans in amounts up to $250,000 to minority- and women-owned businesses, which the bank treats as equity for purposes of satisfying standard loan underwriting criteria. Through year-end 1998, BankBoston CDC made 23 subordinated loans, totaling $3.8 million, which facilitated the extension of additional senior loans by FNB Boston totaling $17.1 million.

1995 and the first nine months of 1996 for community development were $213 million.77 During this period, the bank financed or refinanced 16 multifamily housing projects, totaling $55.5 million, which produced 784 affordable housing units. In 1996, FNB Boston also converted its funding pledge to the Massachusetts Housing Partnership into a grant of $5 million to establish an equity fund to develop affordable housing. This equity fund has financed more than 40 affordable housing projects and provided more than 600 affordable housing units.78 In 1998, BankBoston CDC made community development investments totaling almost $52 million, including direct investments in three businesses totaling $1.7 million; the direct purchase of $15 million of historic tax credits to help fund the Landmark Center in Boston; and a commitment to the Massachusetts Housing Equity Fund of $11.3 million to be used to purchase low-income housing tax credits.

Examiners concluded that the bank's branch network provided reasonable access for all segments of the community to products and services that addressed the community's credit needs. Twenty-eight percent of all branches were in LMI areas, and an additional 25 percent of all branches were within 1.5 miles of LMI areas. The bank offered a basic checking account for limited account activity, and customers over 65 years old were offered

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77 Included among these projects were a $19 million construction loan for Lowell Square in the West End section of Boston to produce 184 units of mixed income housing and related retail space; a $3.4 million construction loan and permanent financing for the renovation of the Washington Park Mall in the Roxbury section of Boston; a $1.7 million construction loan to Union Hill Limited Partnership for the construction of 40 units of scattered site affordable housing in Worcester; and a $100 million commitment for working capital, lines of credit, and letters of credit to support the reconstruction and business survival of a major Merrimack Valley textile mill that was destroyed by fire.

78 The bank announced an additional grant of $5 million in 1999 to establish a second equity fund.

low-cost checking accounts and savings accounts with no minimum balance requirement.

FNB Boston also developed a separate division, called First Community Bank, that operated 20 branches initially in neighborhoods with a significant minority population and concentration of LMI households, and that implemented a separate business and marketing plan to provide residents in these neighborhoods with products and services specifically designed for their credit and banking needs. FNB Boston now operates 42 First Community Bank branches in Massachusetts, Connecticut, and Rhode Island, with 137,000 customers and $1.6 billion of deposits, and Fleet has stated that Fleet Boston would expand the program to 45 branches.

BankBoston-CT. Examiners reported that BankBoston-CT received more than 30 percent of its HMDA-reported loan applications from low-income applicants during the examination period, and the bank continued thereafter to successfully solicit applications from LMI borrowers. The bank received 33.5 percent of its housing-related loan applications from LMI individuals in 1996, 43.2 percent in 1997, and 35 percent in 1998. Loan originations showed a similar pattern. BankBoston-CT made 32.5 percent of its housing-related loans to LMI borrowers in 1996, 41.8 percent in 1997, and 32.5 percent in 1998.

BankBoston-CT also offered or participated in several programs that offered affordable home mortgages. The bank's First Step Mortgage program featured flexible underwriting, reduced downpayment requirements, and lower closing costs for first-time, low-income homebuyers. The bank also participated during the examination period in several programs sponsored by HART and committed to provide $3 million in affordable mortgage loans at below-market interest rate's in selected neighborhoods in Hartford. BankBoston-CT made 13 loans in 1997, totaling $1.1 million, under this program and made 23 loans in

1998, totaling $1.4 million. The bank made an additional 21 loans, totaling $1.6 million, in 1998 under an identical program sponsored by the Urban League of Hartford. The bank also participated with the Waterbury Housing Authority to assist public housing tenants and other eligible borrowers in Waterbury by committing $750,000 for second mortgages that the bank would forgive after five years at the rate of 5 percent of the original principal amount per year.

Examiners described BankBoston-CT as an active small business lender. BankBoston-CT participated in the state's Urbank program to help meet the financing needs of small start-up and minority-owned businesses, and established its own small business division that offered microloans with principal amounts as small as $2,000. BankBoston's small business lending rapidly expanded after the examination period. The bank made 478 small business loans in 1996, totaling $57.9 million; 673 loans in 1997, totaling $65.7 million; and 1,563 loans in 1998, totaling $77.8 million. By comparison, both the number and dollar amount of small business loans by lenders in the aggregate decreased from 1996 to 1998. The percentage of the bank's small business loans in LMI census tracts also approximated the percentage of LMI census tracts in the bank's assessment area.

Examiners favorably noted BankBoston-CT's participation in community development projects. The bank made a leading commitment of $1.3 million to the Waterbury Housing Fund for the construction and rehabilitation of multifamily LMI housing, which supported the rehabilitation of 99 units of affordable rental housing, and it made a $2.5 million commitment to the Affordable Housing Fund of Connecticut, of which $1.3 million was invested in a project to develop 148 affordable housing units in downtown New Haven. An investment of $630,000 in the Asylum Hill Limited Partnership funded the development of 14 units of affordable housing in Hartford, and a loan commitment of $450,000 to the Capitol Housing Corporation supported work to complete 91 projects that provided 1,426 affordable housing units in the Hartford area. In 1999, BankBoston-CT entered into an agreement with Fannie Mae for the bank to provide up to $10 million of leveraged financing for affordable housing and neighborhood revitalization projects in the City of Hartford, and made a $1.9 million commitment for its first project loan under this program. BankBoston-CT also invested $1 million in the Connecticut Economic Development Fund to provide credit and technical assistance for small business expansions and relocations that would create significant additional employment opportunities in the state.

Examiners stated that BankBoston-CT provided a full range of credit products to serve its entire community. The bank's First Step products were specifically designed to meet the credit needs of LMI customers.[79] All BankBoston-CT branches cashed government checks for customers without charge and distributed food stamps. The bank conducted a "second look" review of all mortgage applications before a loan could be denied, and a third review of all mortgage loan applications under the First Step program and from all LMI applicants. Examiners found no evidence of prohibited discriminatory or other illegal credit practices and no practices or procedures intended to discourage applications.

Hospital Trust. Examiners commended Hospital Trust for the distribution of its home mortgage and consumer lending. The bank made 39 percent of all its home mortgage loans and 46 percent of all its consumer loans to LMI borrowers. The percentage of the bank's home mortgage loans originated to low-income borrowers was 2.2 times the comparable percentage for lenders in the aggregate

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79 These products included a checking account featuring no monthly service charge with direct deposit, no minimum balance requirement, and six free transactions per month; an interest-bearing savings account featuring no minimum balance, unlimited deposit and withdrawal privileges, and a $1 monthly service charge; and a checking account for customers 60 years or older featuring no service charge, no minimum balance requirement, and no transaction charges.

in 1995, and 1.3 times the percentage in 1996. For moderate-income borrowers, the percentage of home mortgage loans originated by the bank was 1.5 times the comparable percentage for lenders in the aggregate in 1995 and 1.3 times the comparable percentage in 1996. Hospital Trust maintained its commitment to LMI borrowers after the examination period. In 1997, the bank made 38.6 percent of its housing-related loans to LMI borrowers, and 16.9 percent of such loans to residents of LMI census tracts, compared with 19.3 percent of residents of LMI census tracts in the total population of Rhode Island. In 1998, the bank's housing-related lending increased substantially, although lending to LMI borrowers was unchanged.

Examiners noted that Hospital Trust offered several mortgage products to address the need for affordable mortgage financing in its assessment area. Under the First Step program, Hospital Trust originated loans in the total amount of $14.4 million in 1995 and $8.4 million in the first nine months of 1996.[80] During this period, the bank also originated 316 FHA and VA loans, totaling $33 million, and 258 loans, totaling $21 million, under several programs sponsored by the Rhode Island Housing and Mortgage Finance Corporation ("RIHFMC"). During 1998 and 1999, Hospital Trust made 18 loans, totaling $1.7 million, under the Opening Doors program for first-time homebuyers sponsored by RIHFMC, which features 100-percent financing and financial counseling.

Hospital Trust also was commended by examiners for its small business lending. In 1995, the bank introduced a one-page form to simplify the application process and reduce the bank's response time for loans for principal amounts of less than $100,000. The volume of lending increased from $91 million during 1995 to $102 million during the first nine months of 1996. In 1997, the bank made 495 small business loans, totaling

80 Hospital Trust also made 287 First Step home improvement loans, totaling $5 million, during the examination period.

$46.6 million, and in 1998 its lending increased to 1,130 loans, totaling $57.9 million.[81] From 1995 to 1996, SBA lending doubled to 77 loans for $7.8 million.

Examiners found that Hospital Trust was an active participant in community development projects, with an emphasis on projects that provided affordable housing and supported economic development. During the first nine months of 1996, the bank made 46 percent of all its real estate development loan commitments to nonprofit organizations in LMI census tracts that supported affordable housing or supported economic development, and it helped to finance the development of 522 affordable housing units during the examination period.[82]

Several alternative delivery systems, including loan applications by telephone, provided additional access to the bank's products and services. The bank conducted a "second look" review of all home purchase, home improvement, and consumer loan applications before a loan could be denied and a third review for purchase mortgage applications by LMI applicants. Hospital Trust's conventional mortgage lending affiliate also employed second and third review programs for denied applications by LMI applicants.

F. HMDA Data and Fair Lending

The Board has carefully considered the lending records of

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81 The bank's loans to small business increased at a similar rate, from 216 loans in 1996, totaling $9.7 million, to 250 loans in 1997, totaling $9.6 million, and 692 loans in 1998, totaling $18.6 million. Small business loans and loans to small businesses by lenders in the aggregate did not show similar increases.

82 These projects included a reduced-rate construction loan to Woonsocket Neighborhood Development Corporation for $510,000 to rehabilitate 14 buildings and create 44 units of affordable housing for very low-income households; a $900,000 revolving line of credit to the Providence Housing Authority to construct 25 new housing units at scattered sites for lease to low-income tenants; and a $925,000 loan to an affiliate of the Women's Development Corporation to acquire and renovate 14 single family homes in North Smithfield to be sold to low-income purchasers.

Fleet and BankBoston in light of comments on HMDA data reported by subsidiaries of the organizations. In particular, commenters alleged that HMDA data from Fleet's banking and nonbanking subsidiaries showed discrimination against minority and LMI credit applicants in violation of the fair lending laws. Commenters also asserted that a substantial overall decrease in housing-related lending has occurred after other acquisitions by Fleet and BankBoston. Commenters expressed concern that this decrease was evidence of a withdrawal by these organizations from housing-related lending, and that allowing consummation of the proposal would result in a substantial decrease in Fleet and BankBoston's lending in various New England markets.

Fleet and BankBoston deny allegations of illegal credit practices and have provided HMDA data and extensive information regarding their lending programs and efforts to serve minority and LMI communities. Fleet also has stated that Fleet Boston would continue to market a variety of products, including home mortgage products, that feature flexible terms and are selected from the current offerings of Fleet and BankBoston, to all segments of its service communities, and would seek to expand the combined organization's customer base through partnerships with community organizations.

The Board has carefully considered the 1996, 1997, and 1998 HMDA data reported by Fleet and BankBoston. The data indicate that both Fleet and BankBoston made a significant number and amount of housing-related loans in each of these years, including in LMI areas and to LMI individuals and minorities. The data generally show that housing-related lending by Fleet and BankBoston declined from 1996 to 1997. The data also show, however, that housing-related lending by Fleet and BankBoston increased from 1997 to 1998, exceeding 1996 levels in several assessment areas and reported loan categories.[83] Moreover, the

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83 This increase was generally larger for Fleet than for BankBoston. BankBoston sold its remaining interest in a residential mortgage banking subsidiary in 1998.

data show that, although BankBoston withdrew in large part from conventional home mortgage lending during this period, the level of home mortgage lending that it provided to LMI and minority populations in Massachusetts, Connecticut, Rhode Island, and New Hampshire remained the same or increased, and in many cases exceeded lending levels to LMI individual and minorities by lenders in the aggregate. The data indicate a decrease in the percentage of loan applications received by Fleet from minority and LMI individuals. Importantly, the data generally do not indicate that either Fleet or BankBoston is excluding any geographic areas or population segments on a prohibited basis.

The data also reflect certain disparities in the rates of loan applications, originations, and denials among members of different racial groups and persons at different income levels, both generally and in certain states and local areas. The Board is concerned when an institution's record indicates such disparities in lending, and believes that all banks are obligated to ensure that their lending practices are based on criteria that assure not only safe and sound banking, but also equal access to credit by creditworthy applicants, regardless of their race or income level. The Board recognizes, however, that HMDA data alone provide an incomplete measure of an institution's lending in its community because the data cover only a few categories of housing-related lending. HMDA data, moreover, provide only limited information about the covered loans.84 HMDA data, therefore, have limitations that make the data an inadequate basis, absent other information, for concluding that an

84 The data, for example, do not account for the possibility that an institution's outreach efforts may attract a larger proportion of marginally qualified applicants than other institutions attract and do not provide a basis for an independent assessment of whether an applicant who was denied credit was, in fact, creditworthy. Credit history problems and excessive debt levels relative to income (reasons most frequently cited for a credit denial) are not available from HMDA data. Fleet also has cited increased management and staffing changes at Fleet Mortgage as factors affecting its mortgage lending performance.

institution has not adequately assisted in meeting its communities' credit needs or has engaged in illegal discrimination in making lending decisions.

Because of the limitations of HMDA data, the Board has carefully considered the data in light of other information, including examination reports that provide an on-site evaluation of compliance by the subsidiary banks of Fleet and BankBoston with fair lending laws and the overall lending and community development activities of the banks, as well as fair lending examinations of Fleet Mortgage, which is a subsidiary of Fleet Bank. Examiners found no evidence of prohibited discrimination or illegal credit practices at the subsidiary banks of Fleet or at Fleet Mortgage. Fleet Mortgage's fair lending policies, procedures, training programs, and internal monitoring programs were all considered to be satisfactory.

Examiners also conducted a fair lending examination of FNB Boston's mortgage lending division and the bank's conventional home mortgage lending affiliate in connection with the bank's CRA performance examination. These operations were found to comply with the substantive provisions of antidiscrimination laws and regulations and no evidence of discriminatory credit practices or illegal discrimination was found. Examiners also noted that these operations conducted second and third reviews of loan applications by LMI individuals before they could be denied in order to detect and prevent disparate treatment.

The Board also considered the HMDA data in light of the overall lending records of Fleet and BankBoston, including the lending and other programs outlined above. As the discussion illustrates, both Fleet and BankBoston have implemented a wide variety of programs that help to meet the credit needs of the community in areas apart from home mortgage lending, including, in particular, small business loans and consumer credit.

As noted above, although HMDA data for Fleet and BankBoston show some fluctuation in their levels of home mortgage lending, a loan product that both organizations consider to be part of their normal business, the data reveal substantial mortgage lending by these organizations throughout the period and a subsequent increase in home mortgage lending that typically equaled or exceeded temporary decreases in home mortgage lending. Importantly, the examinations during this period do not reveal any prohibited discriminatory behavior or illegal credit practices at either organization and confirm that both organizations have made significant efforts to lend in all communities within their assessment areas. Viewed in light of the entire record, the Board does not believe that the HMDA data indicate that Fleet's or BankBoston's records of performance in helping to serve the credit needs of its communities are inconsistent with approval of the proposal.

G. Fleet CRA Pledge

In connection with the proposal, Fleet has announced a five-year, $14.6 billion CRA pledge for all the states served by the combined organization.[85] According to Fleet, this program reflects an increase of approximately 8 percent to the current amounts of CRA-related lending, investments, and charitable contributions by Fleet and BankBoston on a combined basis, after adjusting for the proposed divestitures.[86]

The CRA requires the Board, in considering Fleet's application to acquire BankBoston, to review carefully the actual

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85 The Fleet CRA pledge includes the following primary elements: (1) $4 billion in affordable home purchase loans for LMI borrowers; (2) $7.5 billion in small business loans; and (3) $2 billion in community development loans and investments in LMI areas. Fleet also indicates that Fleet Boston would maintain the combined annual charitable contributions of Fleet and BankBoston of $25 million for five years. The distribution of funds under the pledge would generally reflect the relative distribution of Fleet Boston's branches among the states served by the organization. In states where BankBoston does not have branches, Fleet expects that its current level of activity would be maintained.

86 As indicated above, commenters criticized the Fleet CRA pledge and various features of the pledge.

record of past performance of the insured depository institutions controlled by Fleet and BankBoston in helping to meet the credit needs of all their communities.87 Consistent with this mandate, the Board previously has held that, to gain approval of a proposal to acquire an insured depository institution, an applicant must demonstrate a satisfactory record of performance under the CRA without reliance on plans or commitments for future action.88

The Board has considered the Fleet CRA pledge in this light as an indication of the intent of Fleet and BankBoston to maintain and strengthen their current commitment to serving the convenience and needs of their communities.89 The Board notes, moreover, that the future activities of Fleet Boston, including any lending and community development activities in which the subsidiary banks of Fleet Boston might engage under the announced CRA pledge, will be reviewed by the appropriate federal supervisors of those institutions in future performance examinations as the pledge is implemented, and that Fleet Boston's CRA performance record will be considered by the Board in future applications by Fleet Boston to acquire a depository

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87 A number of commenters contended that the Board should not consider the CRA pledge in its review of the proposal.

88 See Totalbank Corporation of Florida, 81 Federal Reserve System 876 (1995); First Interstate Bank Systems of Montana, Inc., 77 Federal Reserve Bulletin 1007 (1991).

89 A number of commenters criticized Fleet for not negotiating agreements with community organizations and stated that Fleet should be required to negotiate CRA agreements with the political leaders and organizations in areas affected by the proposal. The Board previously has noted that, although communications by depository institutions with community groups provide a valuable method of assessing and determining how an institution may best address the credit needs of the community, neither the CRA nor the CRA regulations of the federal financial supervisory agencies require depository institutions to enter into agreements with any organization. See Fifth Third Bancorp, 80 Federal Reserve Bulletin 838 (1994).

institution.

H. Branch Closures

In view of the extensive branch divestitures that Fleet has proposed, it has not developed definitive plans to close, consolidate, or relocate any branches of Fleet or BankBoston after consummation of the proposal.[90] Nevertheless, commenters expressed concern that the proposal would result in additional branch closings, particularly in LMI areas. The Board has carefully considered the public comments about potential branch closings in light of all the facts of record, including information provided by Fleet.

The Board also has carefully considered the records of Fleet and BankBoston in opening and closing branches and the branch closing policies of Fleet and BankBoston. Examiners have reviewed the performance of both organizations under their branch closing policies on several occasions as part of their review of the banks' CRA performance. The most recent CRA performance examinations of Fleet's subsidiary banks, including Fleet Bank, Fleet-NH, and Fleet-NJ, found that the banks had a satisfactory record of opening and closing branches and provided reasonable access to services for all segments of the bank's communities. These examinations generally noted no materially adverse effects on LMI neighborhoods from branch closings. Examiners also concluded that the branch and ATM networks and alternative delivery systems of Fleet's subsidiary banks reasonably served the credit needs of all segments of their communities, including LMI areas. Examiners also reviewed the branch closing policy and record of branch closings of BankBoston and concluded that its subsidiary banks had a good record of opening and closing branches.

The Board expects that the subsidiary banks of the combined organization would continue to use their respective branch

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90 Fleet has indicated that there are no immediate plans to consolidate the Fleet and BankBoston subsidiary banks.

closing policies for any branch closing that may result from the proposal.[91] To permit the Board to assess the effectiveness of the branch closing policy of Fleet, the Board conditions its action on the proposal on the requirement that Fleet report semiannually to the Federal Reserve System during the two-year period after consummation of the proposal, all branch closings, including consolidations, that occur as a result of the proposal. For branches closed in LMI census tracts, Fleet also should indicate the proximity of the closed branch to the nearest Fleet branch and the steps that Fleet took to mitigate the impact of the branch closure.[92]

I. Conclusion on Convenience and Needs Factor

The proposed merger would create a large banking organization that would have a significant presence in New England and in other parts of the country. Accordingly, the Board has carefully reviewed the proposal and its effects on the convenience and needs of all the communities to be served by the combined organization.

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91 The Board also has considered that federal banking law provides a specific mechanism for addressing branch closings. Federal law requires an insured depository institution to provide notice to the public and to the appropriate federal financial regulatory agency before closing a branch. See 12 U.S.C. § 1831r-1; see also Interagency Policy Statement on Branch Closings (64 Federal Register 34,844 (1999)). The law does not authorize federal regulators to prevent the closing of a branch. Any branch closings resulting from the proposal will be considered by the appropriate federal financial regulatory agency at the next CRA performance examination of the relevant insured depository institution.

92 Several commenters expressed concern that the merger would result in the loss of jobs. The effect of a proposal on employment in a community is not among the factors included in the BHC Act, and the federal banking agencies, courts, and Congress consistently have interpreted the convenience and needs factor to relate to the effect of a proposal on the availability and quality of banking services in the community. See, e.g., Wells Fargo & Company, 82 Federal Reserve Bulletin 445, 457 (1996).

In conducting its review, the Board has carefully considered all the comments on the convenience and needs factor. A significant number of commenters expressed support for the proposal based on the records of Fleet and BankBoston in helping to serve the banking and, in particular, the lending needs of their entire communities, including LMI areas. Other commenters questioned whether Fleet has been, and Fleet Boston would be, responsive to the banking and credit needs of all their communities. The Board has carefully considered these concerns and weighed them against the overall CRA records of Fleet and BankBoston, reports of examination of CRA performance, and information provided by the two banking organizations, including Fleet's and BankBoston's responses to the comments.

As discussed in this order, the record in this case demonstrates that Fleet and BankBoston have established records of satisfactory or better performance in helping to meet the convenience and needs of the communities they serve. The record illustrates that there are strengths and weaknesses in the CRA performance record of both organizations, and that both organizations have taken steps to address weaknesses that may emerge in CRA performance. On balance, and based on a review of the entire record, the Board concludes that convenience and needs considerations, including the records of CRA performance by both organizations' subsidiary depository institutions, are consistent with approval of the proposal. The Board expects Fleet Boston to demonstrate no less commitment to helping to serve the banking needs of its communities, including LMI neighborhoods, following consummation of the proposal, than Fleet and BankBoston have demonstrated to date. The Board believes that Fleet's decision to draw on the best CRA policies, practices, and programs of both organizations, with a particular emphasis on implementing the strong community development programs and policies of BankBoston, will help Fleet Boston to demonstrate that commitment.

<u>Nonbanking Activities</u>

Fleet also has filed a notice under section 4(c)(8) of the

BHC Act to acquire BankBoston's nonbanking companies and thereby engage in a number of nonbanking activities, including underwriting and dealing to a limited extent in all types of equity and debt securities ("bank-ineligible securities"). The nonbanking activities for which Fleet has requested approval are listed in Appendix A.

A. Activities Approved by Regulation

The Board has determined by regulation that extending credit and servicing loans; activities related to extending credit; leasing personal or real property; providing financial and investment advisory services; providing agency transactional services for customer investments; engaging in investment transactions as principal; certain insurance agency and underwriting activities; and community development activities are all closely related to banking for purposes of the BHC Act.[93] Moreover, the Federal Reserve System previously has approved applications by BankBoston to engage in all the proposed activities. Fleet has committed that, after consummation of the proposal, the combined organization would conduct these nonbanking activities in accordance with the limitations set forth in Regulation Y and the Board's orders and interpretations.

B. Underwriting and Dealing in Bank-Ineligible Securities

Fleet currently is engaged in underwriting and dealing in bank-ineligible securities, to a limited extent, through Fleet Securities, Inc. ("FSI"). BankBoston also currently is engaged in underwriting and dealing in bank ineligible securities, to a limited extent, through BancBoston Roberston Stephens Inc., Boston, Massachusetts ("BBRS"). FSI and BBRS are, and would continue to be, broker-dealers registered with the Securities and Exchange Commission ("SEC") and members of the National Association of Securities Dealers, Inc. ("NASD"). Accordingly, both entities would remain subject to the recordkeeping and reporting obligations, fiduciary standards, and other

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93 See 12 C.F.R. 225.28(b)(1), (2), (3), (6), (7), (8), (11)(i), and (12).

requirements of the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), the SEC, and the NASD.

The Board has determined that, subject to the framework of prudential limitations established in previous decisions to address the potential for conflicts of interests, unsound banking practices, or other adverse effects, underwriting and dealing in bank-ineligible securities is so closely related to banking as to be a proper incident thereto within the meaning of section 4(c)(8) of the BHC Act.[94] The Board also has determined that underwriting and dealing in bank-ineligible securities is consistent with section 20 of the Glass-Steagall Act (12 U.S.C. § 377), provided that the company engaged in the activities derives no more than 25 percent of its gross revenues from underwriting and dealing in bank-ineligible securities over a two-year period.[95] Fleet has committed that, after consummation of the

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94 See J.P. Morgan & Co. Incorporated, et al., 75 Federal Reserve Bulletin 192 (1989), aff'd sub nom. Securities Industry Ass'n v. Board of Governors of the Federal Reserve System, 900 F.2d 360 (D.C. Cir. 1990); Citicorp, et al., 73 Federal Reserve Bulletin 473 (1987), aff'd sub nom. Securities Industry Ass'n v. Board of Governors of the Federal Reserve System, 839 F.2d 47 (2d Cir.), cert. den., 486 U.S. 1059 (1988) ("Citicorp"); as modified by Review of Restrictions on Director, Officer and Employee Interlocks, Cross-Marketing Activities, and the Purchase and Sale of Financial Assets Between a Section 20 Subsidiary and an Affiliated Bank or Thrift, 61 Federal Register 57,679 (1996), Amendments to Restrictions in the Board's Section 20 Orders, 62 Federal Register 45,295 (1997); and Clarification to the Board's Section 20 Orders, 63 Federal Register 14,803 (1998) (collectively, "Section 20 Orders").

95 See Section 20 Orders. Compliance with the revenue limitation shall be calculated in accordance with the method stated in the Section 20 Orders, as modified by the Order Approving Modifications to the Section 20 Orders, 75 Federal Reserve Bulletin 751 (1989); 10 Percent Revenue Limit on Bank-Ineligible Activities of Subsidiaries of Bank Holding Companies Engaged in Underwriting and Dealing in Securities, 61 Federal Register 48,953 (1996); and Revenue Limit on Bank-Ineligible Activities of Subsidiaries of Bank Holding Companies Engaged in Underwriting and Dealing

transaction, FSI and BBRS each would conduct its bank-ineligible securities underwriting and dealing activities subject to the revenue and prudential limitations previously established by the Board. This order is conditioned on compliance by the combined organization with the revenue restrictions and Operating Standards established for section 20 subsidiaries.96

C. Proper Incident to Banking

In order to approve Fleet's notice to engage in nonbanking activities, the Board must determine that the acquisition of the nonbanking subsidiaries of BankBoston and the performance of those activities by the combined organization is a proper incident to banking; that is, the Board must determine that the proposed transaction "can reasonably be expected to produce benefits to the public . . . that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."97

As part of its evaluation of these factors, the Board considers the financial condition and managerial resources of Fleet and its subsidiaries, including the companies to be acquired, and the effect of the proposed transaction on those resources. For the reasons noted above, and based on all the facts of record, the Board has concluded that financial and managerial considerations are consistent with approval of the notice.

The Board also has reviewed the capitalization of the

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in Securities, 61 Federal Register 68,750 (1996) (collectively, "Modification Orders").

96 12 C.F.R 225.200. As long as FSI and BBRS operate as separate corporate entities, both companies will be independently subject to the 25-percent revenue limitation on underwriting and dealing in bank-ineligible securities. See Citicorp at 486 n.45.

97 12 U.S.C. § 1843(c)(8).

combined organization, FSI, and BBRS in light of the standards set forth in the Section 20 Orders. The Board finds the capitalization of each to be consistent with approval of the proposal and the Section 20 Orders. The Board's determination is based on all the facts of record, including the projections of the volume of bank-ineligible securities underwriting and dealing activities to be conducted by FSI and BBRS. The Board also has considered that Fleet and BankBoston have established policies and procedures to ensure compliance with this order and the Section 20 Orders, including computer, audit, and accounting systems, internal risk management controls, and the necessary operational and managerial infrastructure.

The Board also has considered the competitive effects of the proposed acquisition by Fleet of the nonbanking subsidiaries of BankBoston in light of all the facts of record, including the public comments received. Each of the markets in which the nonbanking subsidiaries of Fleet and BankBoston compete are national or regional and are unconcentrated, and there are numerous providers of each of these services. As a result, the Board expects that consummation of the proposal would have a de minimis effect on competition for these services. Based on all the facts of record, the Board concludes that it is unlikely that significantly adverse competitive effects would result from the nonbanking acquisitions proposed in this transaction.

Fleet has indicated that by combining the resources and operations of Fleet and BankBoston, Fleet Boston would be able to provide better products and services more efficiently to the current customers of Fleet and BankBoston and the future customers of Fleet Boston. Fleet has represented that the combined organization would draw on the product strengths of each of its predecessor bank holding companies and offer a greater range of products in a larger number of locations than Fleet and BankBoston could offer separately. Fleet also has maintained that the merger of Fleet and BankBoston would help to ensure the presence of a strong, locally based institution in New England.

In addition, there are public benefits to be derived from permitting capital markets to operate so that bank holding companies can make potentially profitable investments in nonbanking companies and from permitting banking organizations to allocate their resources in the manner they consider to be most efficient when such investments and actions are consistent, as in this case, with the relevant considerations under the BHC Act.

The Board also believes that the conduct of the proposed nonbanking activities within the framework established by this order, prior orders, and Regulation Y is not likely to result in adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices, that would outweigh the public benefits of the proposal, such as increased customer convenience and gains in efficiency. Accordingly, based on all the facts of record, the Board has determined that the balance of public interest factors that the Board must consider under the proper incident to banking standard of section 4(c)(8) of the BHC Act is favorable and consistent with approval of Fleet's notice.

Fleet also has provided notice, in accordance with section 4(c)(13) of the BHC Act and section 211.5(c) of the Board's Regulation K (12 C.F.R. 211.5(c)), to acquire BankBoston's foreign banking and nonbanking operations. In addition, Fleet has applied as required by sections 25 and 25A of the Federal Reserve Act and section 211.5(c) of Regulation K to acquire BankBoston International and Boston Overseas Financial Corporation, both of which are organized under section 25A of the Federal Reserve Act. The Board concludes that all the factors it is required to consider under the Federal Reserve Act, the BHC Act, and the Board's Regulation K in connection with the foregoing notices are consistent with approval of the proposal.

Requests for Additional Public Meetings

A number of commenters requested that the Board hold additional public meetings or hearings on the proposal in areas that may be affected by the merger, including communities in

Massachusetts, Connecticut, and Rhode Island. The Board has carefully considered these requests in light of the BHC Act, the Board's Rules of Procedure, and the substantial record developed in this case.98

As explained above, the Board held a public meeting on the proposal in Boston to clarify issues related to the applications and notices and to provide an opportunity for members of the public to testify.99 The Board considered Boston the appropriate location for the public meeting because Fleet Boston would be headquartered there, and because Boston was a reasonably central location in the region in which the new bank holding company would have its most significant geographic presence. Approximately 150 interested persons appeared and provided oral testimony at the public meeting, including elected representatives, the attorneys general of Massachusetts and Connecticut, members of community groups from cities and towns throughout New England, and representatives of businesses and business groups throughout New England. In addition, the public comment period provided more than 54 days for interested persons to submit written comments on the proposal, and the Board received and considered written comments from approximately 200 interested persons who did not testify at the public meeting.

In the Board's view, all interested persons had ample opportunity to submit their views either in writing or orally at the public meeting in Boston. Numerous commenters, in fact, submitted substantial materials that have been carefully considered by the Board in acting on the proposal. Commenters requesting additional public meetings have failed to show why

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98 Section 3(b) of the BHC Act does not require that the Board hold a public hearing on an application unless the appropriate supervisory authority for the bank to be acquired makes a timely written recommendation of denial of the application. 12 U.S.C. § 1842(b). In this case, the Board has not received such a recommendation from any state or federal supervisory authority.

99 See 12 C.F.R. 262.3(e) and 262.25(d).

their written comments do not adequately present their views, evidence, and allegations. They also have not shown why the public meeting in Boston and the 54-day comment period did not provide an adequate opportunity for all interested parties to present their views and voice their concerns. For these reasons, and based on all the facts of record, the Board has determined that additional public meetings or hearings are not required and are not necessary or warranted to clarify the factual record on the proposal. Accordingly, the requests for additional public meetings or hearings on the proposal are hereby denied.[100]

Conclusion

Based on the foregoing, and in light of all the facts of record, the Board has determined that the applications and notices should be, and hereby are, approved. In reaching this

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100 A number of commenters requested that the Board delay action on the proposal or extend the comment period until (i) Fleet provided more detail about its $14.6 billion, five-year community development pledge; (ii) Fleet entered into a written, detailed, and publicly verifiable CRA agreement produced through negotiations with community groups; (iii) Fleet agreed to renew its home mortgage partnership agreements, particularly those with ACORN and NACA; or (iv) Fleet entered into new CRA agreements with local community groups.

The Board believes that the record in this case does not warrant postponement of the Board's consideration of the proposal. The Board has accumulated a significant record in this case, including reports of examination, supervisory information, public reports and information, and considerable public comment. Moreover, as discussed more fully above, the CRA requires the Board to consider the existing record of performance of an organization and does not require that an organization enter into contracts or agreements with others to implement the organization's CRA programs. For the reasons discussed above, the Board believes that commenters have had ample opportunity to submit their views and, in fact, they have provided substantial written submissions and oral testimony that have been considered carefully by the Board in acting on the proposal. Based on a review of all the facts of record, the Board concludes that the record in this case is sufficient to warrant Board consideration and action on the proposal at this time, and further delay of consideration of the proposal, another extension of the comment period, or denial of the proposal on the grounds discussed above, including on the basis of informational insufficiency, is not warranted.

conclusion, the Board has carefully considered all oral testimony and the written comments regarding the proposal in light of the factors it is required to consider under the BHC Act and other applicable statutes.

Approval of the applications and notices is specifically conditioned on compliance by Fleet with all the commitments made in connection with the proposal and with the conditions stated or referred to in this order, including Fleet's divestiture commitments and the requirement that Fleet Boston file periodic branch closing reports. The Board's determination on the nonbanking activities also is subject to all the terms and conditions set forth in Regulation Y, including those in sections 225.7 and 225.25(c) (12 C.F.R. 225.7 and 225.25(c)), and to the Board's authority to require such modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to ensure compliance with, and to prevent evasion of, the provisions of the BHC Act and the Board's regulations and orders thereunder. For purposes of this transaction, the commitments and conditions referred to in this order and in the applications and notices shall be deemed to be conditions imposed in writing by the Board in connection with its findings and decision and, as such, may be enforced in proceedings under applicable law. Underwriting and dealing in any manner other than as approved in this order and the Section 20 Orders (as modified by the Modification Orders) is not within the scope of the Board's approval and is not authorized for Fleet Boston.

The acquisition of BankBoston's subsidiary banks shall not be consummated before the fifteenth calendar day following the effective date of this order, and no part of the proposal shall be consummated later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Boston, acting pursuant to delegated authority.

By order of the Board of Governors,[101] effective September 7, 1999.

(signed)

Robert deV. Frierson
Associate Secretary of the Board

101 Voting for this action: Chairman Greenspan and Governors Kelley, Meyer, Ferguson, and Gramlich.

Nonbanking Activities of BankBoston

(1) Extending credit and servicing loans in accordance with section 225.28(b)(1) of Regulation Y (12 C.F.R. 225.28(b)(1)), through BancBoston Robertson Stephens Inc. (“BBRS”), BancBoston Investments Inc., and BancBoston Real Estate Capital Corporation, all of Boston, Massachusetts; and Back Bay Capital Funding LLC, Wilmington, Delaware.

(2) Activities related to extending credit in accordance with section 225.28(b)(2) of Regulation Y (12 C.F.R. 225.28(b)(2)), through BBRS.

(3) Engaging in leasing personal or real property in accordance with section 225.28(b)(3) of Regulation Y (12 C.F.R. 225.28(b)(3)), through Bank Boston Leasing Investments Inc., Boston, Massachusetts (“BBLI”).

(4) Providing financial and investment advisory services in accordance with section 225.28(b)(6) of Regulation Y (12 C.F.R. 225.28(b)(6)), through BBRS.

(5) Providing agency transactional services for customer investments in accordance with section 225.28(b)(7) of Regulation Y (12 C.F.R. 225.28(b)(7)), through BBRS.

(6) Engaging in investment transactions as principal in accordance with section 225.28(b)(8) of Regulation Y (12 C.F.R. 225.28(b)(8)), through BBRS.

(7) Engaging in insurance agency and underwriting activities in accordance with section 225.28(b)(11)(i) of Regulation Y (12 C.F.R. 225.28(b)(11)(i)), through RIHT Life Insurance Company, Phoenix, Arizona.

(8) Engaging in community development activities in accordance with section 225.28(b)(12) of Regulation Y (12 C.F.R. 225.28(b)(12)), through BBLI.

Definitions of Banking Markets in which
Fleet and BankBoston Directly Compete

A. *Connecticut Banking Markets*

Fairfield Area: Connecticut portion of the Metropolitan New York City Rand McNally Marketing Area ("RMA") and the townships of Kent, Roxbury, Warren, and Washington in Litchfield County.

Hartford: Hartford RMA and the townships of Hampton and Scotland in Windham County; Hartland in Hartford County; and Union in Tolland County.

New Haven: New Haven RMA.

New London: New London RMA and the townships of Sterling in Windham County and Lyme and Voluntown in New London County.

Torrington: Torrington RMA and the townships of Colebrook, Goshen, and Norfolk in Litchfield County.

Waterbury: Waterbury RMA.

B. *Florida Banking Market*

West Palm Beach: Palm Beach County east of Loxahatchee and the towns of Indiantown and Hobe Sound in Martin County.

C. *Maine Banking Market*

Portland: Portland RMA and the townships of Baldwin, Naples, Pownal, and Sebago in Cumberland County; Dayton, Hollis, Kennebunkport, Lyman, and North Kennebunkport in York County: and the city of Biddeford in York County.

D. *Massachusetts Banking Markets*

Boston: Boston RMA and the town of Lyndeboro in New Hampshire.

Cape Cod: Barnstable County.

Fall River: Fall River RMA.

Greenfield: Franklin County, excluding the towns of Deerfield, Leverrett, Monroe, New Salem, Orange, Shutesbury, Sunderland, Warwick, and Whately.

New Bedford: New Bedford RMA.

Springfield: Springfield RMA and the towns of Otis in Berkshire County; Deerfield, Leverett, Shutesbury, and Whately in Franklin County; Blanford, Chester, Granville, and Tolland in Hampden County; Chesterfield, Cummington, Goshen, Pelham, Plainfield, Westhampton, and Worthington in Hampshire County; and Hardwick and Warren in Worcester County.

Worcester: Worcester RMA and the towns of Brimfield and Wales in Hampton County and Hubbardston in Worcester County.

E. *New Hampshire Banking Market*

Manchester: Manchester RMA and the towns of Deerfield in Rockingham County and New Boston in Hillsborough County.

F. *Rhode Island Banking Markets*

Newport: Newport RMA.

Providence: Providence-Warwick RMA.

Appendix C

Banking Markets With No Divestitures

A. *Connecticut Banking Markets*

Fairfield Area – Fleet is the largest depository institution in the market, controlling deposits of $3.2 billion, representing approximately 23.1 percent of market deposits. BankBoston is the 10th largest depository institution in the market, controlling deposits of $260 million, representing 1.9 percent of market deposits. On consummation of the proposal, Fleet would remain the largest of 38 depository institutions in the market, controlling deposits of $3.4 billion, representing 25 percent of market deposits. The HHI would increase 87 points to 1283.

New London – Fleet is the second largest depository institution in the market, controlling deposits of $510 million, representing 21.1 percent of market deposits. BankBoston is the 14th largest depository institution in the market, controlling deposits of $3.8 million, representing less than 1 percent of market deposits. On consummation of the proposal, Fleet would remain the second largest of 13 depository institutions in the market, controlling deposits of $514 million, representing 21.3 percent of market deposits. The HHI would increase 7 points to 1724.

B. *Florida Banking Market*

West Palm Beach – Fleet is the 24th largest depository institution in the market, controlling deposits of $76 million, representing less than 1 percent of market deposits. BankBoston in the 37th largest depository institution in the market, controlling deposits of $17 million, also representing less than 1 percent of market deposits. On consummation of the proposal, Fleet would remain the 24th largest depository institution in the market, controlling deposits of $93 million, representing less than 1 percent of market deposits. The HHI would remain unchanged at 1115.

C. *Maine Banking Market*

Portland – Fleet is the second largest depository institution in the market, controlling deposits of $778 million, representing 24.2 percent of market deposits. BankBoston is the 11th largest depository institution in the market, controlling deposits of $26 million, representing less than 1 percent of market deposits. On consummation of the proposal, Fleet would remain the second largest of 14 depository institutions in the market, controlling deposits of $804 million, representing 25 percent of market deposits. The HHI would increase 39 points to 2448.

D. *Massachusetts Banking Market*

Greenfield – Fleet is the third largest depository institution in the market, controlling deposits of $67 million, representing 15.1 percent of market deposits. BankBoston is the sixth largest depository institution in the market, controlling deposits of $20 million, representing 4.4 percent of market deposits. On consummation of the proposal, Fleet would remain the third largest of 5 depository institutions in the market, controlling deposits of $87 million, representing 19.5 percent of market deposits. The HHI would increase 133 points to 2568.

E. *New Hampshire Banking Market*

Manchester – Fleet is the second largest depository institution in the market, controlling deposits of $589 million, representing 25.2 percent of market deposits. BankBoston is the fourth largest depository institution in the market, controlling deposits of $70 million, representing 3 percent of market deposits. On consummation of the proposal, Fleet would remain the second largest of 8 depository institutions in the market, controlling deposits of $659 million, representing 28.2 percent of market deposits. The HHI would increase 150 points to 3241.

Banking Markets With Divestitures

A. *Connecticut Banking Markets*

Hartford – Fleet is the largest depository institution in the market, controlling deposits of $9.8 billion, representing 49.8 percent of market deposits. BankBoston is the third largest depository institution in the market, controlling deposits of $1.5 billion, representing 7.4 percent of market deposits. Fleet proposes to divest 32 branches, controlling total deposits of $1.5 billion, to an out-of-market competitor. On consummation of the proposal, and after accounting for the proposed divestitures, Fleet would remain the largest of 34 depository institutions in the market, controlling deposits of $9.8 billion, representing 49.8 percent of market deposits. The HHI would remain unchanged at 2824.

New Haven – Fleet is the third largest depository institution in the market, controlling deposits of $1 billion, representing 17.1 percent of market deposits. BankBoston is the fifth largest depository institution in the market, controlling deposits of $540 million, representing 9 percent of market deposits. Fleet proposes to divest three branches, controlling total deposits of $97 million, to an out-of-market competitor. On consummation of the proposal, and after accounting for the proposed divestitures, Fleet would become the largest of 14 depository institutions in the market, controlling deposits of $1.5 billion, representing 24.5 percent of market deposits. The HHI would increase 229 points to 1594.

Torrington – Fleet is the third largest depository institution in the market, controlling deposits of $102.6 million, representing 15.1 percent of market deposits. BankBoston is the fifth largest depository institution in the market, controlling deposits of $69 million, representing 10.2 percent of market deposits. Fleet proposes to divest one branch, controlling deposits of $69 million, to an out-of-market competitor. On consummation of the proposal, and after accounting for the proposed divestitures, Fleet would remain the third largest of 10 depository institutions in the market, controlling deposits of $102.6 million, representing 15.1 percent of market deposits. The HHI would remain unchanged at 1706.

Waterbury – Fleet is the fifth largest depository institution in the market, controlling deposits of $141 million, representing 5.6 percent of market deposits. BankBoston is the third largest depository institution in the market, controlling deposits of $416 million, representing 16.4 percent of market deposits. Fleet proposes to divest three branches, controlling total deposits of $185 million. On consummation of the proposal, and after accounting for the proposed divestitures, Fleet would become the third largest of 15 depository institutions in the market, controlling deposits of $372 million, representing 14.6 percent of market deposits. The HHI would decrease by 32 points to 1463.

B. *Massachusetts Banking Markets*

Boston – Fleet is the second largest depository institution in the market, controlling deposits of $12.6 billion, representing 15.2 percent of market deposits. BankBoston is the largest depository institution in the market, controlling deposits of $24 billion, representing 28.7 percent of market deposits. Fleet proposes to divest 153 branches, controlling total deposits of $6.7 billion, to an out-of-market competitor, and a total of 14 branches, controlling total deposits of $490 million, to competitively suitable in-market competitors. On consummation of the proposal, and after accounting for the proposed divestitures, Fleet would become the largest of 182 depository institutions in the market, controlling deposits of $29.2 billion, representing 35.3 percent of market deposits. The HHI would increase 261 points to 1636.

Cape Cod – Fleet is the fourth largest depository institution in the market, controlling deposits of $331 million, representing 11.8 percent of market deposits. BankBoston is the second largest depository institution in the market, controlling deposits of $585 million, representing 20.9 percent of market deposits. Fleet proposes to divest one branch, controlling deposits of $12.7 million, to an out-of-market competitor, and a total of 14 branches, controlling total deposits of $281 million, to competitively suitable in-market competitors. On consummation of the proposal, and after accounting for the proposed divestitures, Fleet would become the second largest of 11 depository institutions in the market, controlling deposits of $585 million, representing 20.9 percent of market deposits. The HHI would increase 37 points to 1622.

Fall River – Fleet is the sixth largest depository institution in the market, controlling deposits of $123 million, representing 11 percent of market deposits. BankBoston is the largest depository institution in the market, controlling deposits of $212 million, representing 19 percent of market deposits. Fleet proposes to divest three branches, controlling total deposits of $50.8 million, to an out-of-market competitor. On consummation of the proposal, and after accounting for the proposed divestitures, Fleet would become the largest of nine depository institutions in the market, controlling deposits of $285 million, representing 25.5 percent of market deposits. The HHI would increase 187 points to 1501.

New Bedford – Fleet is the largest depository institution in the market, controlling deposits of $415 million, representing 28.5 percent of market deposits. BankBoston is the fourth largest depository institution in the market, controlling deposits of $167 million, representing 11.5 percent of market deposits. Fleet proposes to divest two branches, controlling total deposits of $105 million, to an out-of-market competitor. On consummation of the proposal, and after accounting for the proposed divestitures, Fleet would remain the largest of 10 depository institutions in the market, controlling deposits of $477 million, representing 32.8 percent of market deposits. The HHI would increase 183 points to 2058.

Springfield – Fleet is the third largest depository institution in the market, controlling deposits of $897 million, representing 15.8 percent of market deposits. BankBoston is the largest depository in the market, controlling deposits of $1.1 billion, representing 20 percent of market deposits. Fleet proposes to divest four branches, controlling total deposits of $208 million, to an out-of-market competitor. On consummation of the proposal, and after accounting for the proposed divestitures, Fleet would become the largest depository institution in the market, controlling deposits of $1.8 billion, representing 32.4 percent of market deposits. The HHI would increase 407 points to 1603.

Worcester – Fleet is the second largest depository institution in the market, controlling deposits of $1.1 billion, representing 24.6 percent of market deposits. BankBoston is the largest depository institution in the market, controlling deposits of $1.4 billion, representing 32.3 percent of market deposits. Fleet proposes to divest 23 branches, controlling total deposits of $1.1 billion, to an out-of-market competitor. On consummation of the proposal, and after accounting for the proposed divestitures, Fleet would become the largest of 25 depository institutions in the market, controlling deposits of $1.4 billion, representing 32.3 percent of market deposits. The HHI would remain unchanged at 1833.

C. *Rhode Island Banking Markets*

Newport – Fleet is the fourth largest depository institution in the market, controlling deposits of $55 million, representing 12.6 percent of market deposits. BankBoston is the third largest depository institution in the market, controlling deposits of $86 million, representing 19.6 percent of market deposits. Fleet proposes to divest three branches, controlling total deposits of $86 million, to an out-of-market competitor. On consummation of the proposal, and after accounting for the proposed divestitures, Fleet would remain the fourth largest of five depository institutions in the market, controlling deposits of $55 million, representing 12.6 percent of market deposits. The HHI would remain unchanged at 2437.

Providence – Fleet is the largest depository institution in the market, controlling deposits of $8.6 billion, representing 50 percent of market deposits. BankBoston is the third largest depository institution in the market, controlling deposits of $2.3 billion, representing 13.6 percent of market deposits. Fleet proposes to divest 49 branches, controlling total deposits of $2.5 billion, to an out-of-market competitor. On consummation of the proposal, and after accounting for the proposed divestitures, Fleet would remain the largest of 18 depository institutions in the market, controlling deposits of $8.6 billion, representing 50.2 percent of market deposits. The HHI would increase 12 points to 3465.