

# FEDERAL RESERVE press release



For immediate release

September 23, 1998

The Federal Reserve Board today announced its conditional approval of applications by Travelers Group Inc., New York, New York, to become a bank holding company by acquiring Citicorp, New York, New York, and its bank and nonbank subsidiaries, including Citibank, N.A., New York, New York; and to retain certain nonbanking subsidiaries and investments of Travelers, including Salomon Smith Barney Inc., New York, New York, and Travelers Bank & Trust, fsb, Newark, Delaware.

The Board's approval is subject to the condition that Travelers and the combined organization, Citigroup Inc., take all actions necessary to conform the activities and investments of Travelers and all its subsidiaries to the requirements of the Bank Holding Company Act in a manner acceptable to the Board, including by divestiture as necessary, within two years of consummation of the proposal. The nonconforming activities conducted by Travelers would represent less than 15 percent of the combined company's total assets and less than 20 percent of its revenues. The Board's action also is subject to the condition that all investments and activities of Travelers and Citigroup after consummation of the proposal conform to the requirements of the BHC Act and the Board's regulations and orders thereunder.

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The Board's approval also is subject to the condition that Travelers and Citigroup conform the activities of its companies to the requirements of the Glass-Steagall Act and the Board's related orders and interpretations thereunder, including the Board's revenue test.

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

Attachment

## FEDERAL RESERVE SYSTEM

Travelers Group Inc.  
New York, New York

Citicorp  
New York, New York

### Order Approving Formation of a Bank Holding Company and Notice to Engage in Nonbanking Activities

Travelers Group Inc. ("Travelers"), a holding company for securities, insurance and other financial services firms, has requested the Board's approval under section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. § 1842) ("BHC Act") to become a bank holding company by acquiring all the voting shares of Citicorp, a bank holding company within the meaning of the BHC Act, and all of Citicorp's subsidiary banks, including its lead subsidiary bank, Citibank, N.A., New York, New York ("Citibank").<sup>1/</sup> Travelers also has requested the Board's approval under section 4(c)(8) of the BHC Act and section 225.24 of the Board's Regulation Y (12 C.F.R. 225.24) to acquire various domestic nonbank subsidiaries and investments of Citicorp, including Citibank, Federal Savings Bank, San Francisco, California, and Citicorp Securities Inc., New York, New York, and to retain certain nonbanking subsidiaries of Travelers, including Travelers Bank & Trust, fsb, Newark, Delaware, and Salomon Smith Barney Inc., New York, New York. Travelers proposes to own and operate these companies and to conduct the proposed activities in accordance with the requirements of the BHC Act, Regulation Y and relevant Board orders governing these activities and subsidiaries. In addition,

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<sup>1/</sup> Travelers proposes to acquire Citicorp through a merger with a newly formed direct subsidiary of Travelers. The other domestic subsidiary banks of Citicorp that Travelers proposes to acquire are Citibank (New York State), Pittsford, New York; Citibank Delaware, New Castle, Delaware; Citibank (Nevada), N.A., Las Vegas, Nevada; Citibank (South Dakota), N.A., Sioux Falls, South Dakota; and Universal Bank, N.A., Columbus, Georgia.

Travelers has filed applications and notices under section 4(c)(13) of the BHC Act (12 U.S.C. § 1843(c)(13)) and the Board's Regulation K (12 C.F.R. 211) to acquire the foreign operations of Citicorp and to retain certain foreign investments and continue certain foreign activities of Travelers.<sup>2/</sup> Finally, Travelers has requested an exemption from the quantitative requirements of section 23A of the FRA to permit Citicorp to transfer its existing mortgage subsidiary, Citicorp Mortgage, Inc. ("CMI"), to Citibank to facilitate financing for CMI's business using liquidity available to Citibank.<sup>3/</sup>

Travelers, with total consolidated assets of approximately \$420 billion, is a diversified financial services firm engaged in a variety of securities, insurance, lending, financial advisory, and other financial activities in the United States and overseas.<sup>4/</sup> More than 70 percent of Travelers's total assets and more than 60 percent of its total revenues are associated with activities that are permissible for

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<sup>2/</sup> Travelers also proposes to acquire Citicorp's export trading company, pursuant to section 4(c)(14) of the BHC Act, and the agreement and Edge corporations of Citicorp, pursuant to sections 25 and 25A, respectively, of the Federal Reserve Act ("FRA") (12 U.S.C. §§ 601 *et seq.*, 611 *et seq.*).

<sup>3/</sup> Travelers also has requested an exemption under section 23A of the FRA for a subsidiary of Citibank to purchase the stock of Travelers's Canadian consumer finance subsidiary.

<sup>4/</sup> Asset data for Travelers and Citicorp are as of June 30, 1998, unless otherwise noted.

bank holding companies under the BHC Act, including securities underwriting, dealing, brokerage, and advisory activities; mortgage lending and consumer finance activities; consumer advisory activities; and credit-related insurance activities.<sup>5/</sup>

Travelers also engages domestically and internationally in a number of nonbanking activities that are not permissible for bank holding companies, which Travelers proposes to conform to the requirements of the BHC Act or divest. These activities include underwriting property and casualty, life and commercial insurance and annuities; general insurance agency activities; investing in more than 5 percent of the voting shares of commercial companies; controlling and distributing shares of open-end investment companies registered under the Investment Company Act of 1940 ("mutual funds"); real estate management and investing activities; proprietary trading in physical commodities; oil and gas exploration and investments; and certain other impermissible activities and investments. Travelers has committed to conform all impermissible activities to the requirements of the BHC Act by restructuring the activity or subsidiary, by terminating the activity, or by selling or divesting the subsidiary, as necessary, within the period provided in the BHC Act for new bank holding companies to conform impermissible investments and activities.

In addition, Travelers controls several domestic subsidiaries that cannot be affiliated with a bank under section 20 of the Glass-Steagall Act (12 U.S.C. § 377). These companies engage in securities underwriting and dealing activities, distributing shares of open-end mutual funds, and controlling open-end mutual funds. Travelers has committed to conform the activities of these companies to the requirements of the Glass-Steagall Act and the Board's orders and interpretations thereunder, including the limitations on the amount of revenue

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<sup>5/</sup> These percentages do not account for a number of activities and investments that might be restructured or conformed to the requirements of the BHC Act without divestiture or complete termination of the activity.

derived from securities underwriting and dealing activities, on consummation of the proposed transaction in accordance with the requirements of this order.

Citicorp, with total consolidated assets of approximately \$331 billion, is the third largest commercial banking organization in the United States and the 22d largest commercial banking organization in the world.<sup>6/</sup> Citicorp's subsidiary banks and savings associations operate in California, Connecticut, Delaware, Florida, Georgia, Illinois, Maryland, Nevada, New Jersey, New York, South Dakota, Texas, Utah, Virginia, Washington, D.C., Guam, Puerto Rico, and U.S. Virgin Islands. Citicorp operates approximately 1100 branches and offices in the United States and almost 100 foreign countries, and engages in a number of permissible nonbanking activities.

The proposed transaction would create the largest commercial banking organization in the United States and the world, initially with total consolidated assets of approximately \$751 billion. Travelers's subsidiary depository institutions operate in Delaware. Travelers has indicated that after the proposed acquisition the combined organization would operate under the name Citigroup Inc.

#### 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 for public comment.<sup>7/</sup> The Board extended the initial public comment period to accommodate the broad

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<sup>6/</sup> The ranking data for Citicorp and Travelers are based on data as of December 31, 1997, and reflect the proposed merger of NationsBank Corporation, Charlotte, North Carolina, with BankAmerica Corporation, San Francisco, California, which the Board approved. See NationsBank Corporation, 84 Federal Reserve Bulletin 858 (1998).

<sup>7/</sup> Notice of the proposal was published in the Federal Register (63 Federal Register 17,874 (1998)) and in local newspapers in accordance with the Board's Rules of Procedure. See 12 C.F.R. 262.3(b).

public interest in the proposal. The extended public comment period provided interested persons 48 days to submit written comments on the proposal.

Because of the public interest in the proposal, the Board also held a public meeting on June 25 and 26, 1998, in New York, New York, which gave interested persons an opportunity to present oral and written testimony on the various factors that the Board is charged with reviewing under the BHC Act. Approximately 115 people testified at the public meeting; many of the commenters who testified also submitted written comments.

In total, more than 425 organizations and individuals submitted comments on the proposal, either through oral testimony or written comments.<sup>8/</sup> Commenters included federal, state and local government officials, community and nonprofit organizations, small business owners, customers of Citicorp, several trade associations, and other interested organizations and individuals from more than 20 states (including California, Connecticut, Florida, Illinois, and New York) and Guam, Puerto Rico, U.S. Virgin Islands, and Washington, D.C.

A substantial number of commenters supported the proposal. These commenters supported Travelers and Citicorp for their commitment to local communities and their leadership in community revitalization, social welfare or educational activities. In addition, these commenters commended Travelers's and Citicorp's records of providing investments, grants and loans in support of economic

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<sup>8/</sup> A number of commenters requested that the Board extend the public comment period on the proposal for up to an additional 45 days after the public meeting or until after certain requested documents were publicly released. As noted above, the Board held a public meeting on June 25 and 26 and extended the initial 30-day comment period to 48 days. During this comment period, a substantial number of commenters provided timely information and views to the Board. The Board believes that the extended comment period and the public meeting in this case provided the public with a reasonable period of time to submit comments on all aspects of the proposal that are relevant to the factors that the Board must consider, and that a further extension of this period is not warranted.

or community development projects and other community needs and making charitable contributions in local communities. Many commenters also commended the organizations for providing educational seminars or technical assistance to small businesses and nonprofit organizations. A number of these commenters also praised Travelers's and Citicorp's \$115 billion, ten-year community pledge ("Citigroup community pledge") and expected that the pledge would increase community and economic development funding and the availability of homeowners insurance in underserved urban areas.

A significant number of other commenters contended that the proposal would violate the BHC Act and the Glass-Steagall Act and urged the Board not to consider the proposal unless and until Congress amends the law to allow unlimited combinations of insurance, banking and securities businesses. A number of commenters also expressed concern about the performance records of Citicorp and Travelers under the Community Reinvestment Act ("CRA") (12 U.S.C. § 2901 *et seq.*), particularly with respect to Citicorp's record of lending to minority and low-to moderate-income ("LMI") residents, to small businesses and in LMI communities and communities with predominately minority populations ("minority communities"). Many commenters also expressed concern that Citicorp has disproportionately closed branches and downgraded branch services in LMI and minority communities, particularly in New York. Commenters in California expressed concern about Citicorp's record of lending to LMI individuals and minorities, particularly Hispanics, and its banking service fees. Some commenters contended that Travelers's marketing and sales practices for its subprime mortgage loans, personal loans and insurance products adversely affect consumers. These commenters also believed that the proposal would provide incentives for Citigroup to "steer" LMI and minority consumers to its subprime lenders. In addition, many commenters criticized the Citigroup community pledge, contending that the initiative is not enforceable, lacks specific lending or investment commitments for particular



products or geographic areas, and relates primarily to consumer credit and to insurance products that are not relevant for purposes of the CRA. Commenters also discussed other potential adverse effects of the proposal, including undue concentration of financial resources, conflicts of interest from the proposed operation of impermissible activities and cross-marketing activities, and concerns regarding the use of confidential customer information.

#### Impermissible Activities and Investments

The Board is required to review this proposal under the provisions of the BHC Act and the Glass-Steagall Act. In light of the size, scope and type of activities currently conducted by Travelers, the Board has considered, as a threshold matter, whether the proposal by Travelers to become a bank holding company and to conform its existing activities and investments to the requirements of the BHC Act is consistent with the nonbanking limitations in the BHC Act and the purposes of the BHC Act. As part of this consideration, the Board has carefully weighed the views of commenters and the arguments presented by Travelers.<sup>9/</sup> The Board has paid particular attention to the terms of the relevant sections of the BHC Act as those sections currently apply and to relevant legislative history and Board precedent. On the basis of this review, the Board concludes that Travelers's proposal to acquire Citicorp is permissible under the express terms of the BHC Act, is contemplated by and consistent with the legislative history and the purposes of that Act, and is consistent with the Board's longstanding precedent and practice.

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<sup>9/</sup> Many commenters contended that the proposal exceeds the scope and legislative intent of section 4(a)(2) of the BHC Act. Some commenters argued that section 4(a)(2) is not available to new bank holding companies that are voluntarily formed, and that the Board does not have the discretion to permit a bank holding company to engage in insurance activities beyond the limited exceptions in the BHC Act. Other commenters argued that section 4(a)(2) is available only to allow new bank holding companies that control a small amount of impermissible assets a limited time period for an orderly disposition of those assets.

Section 4 of the BHC Act governs the investments that may be held by bank holding companies and the activities that may be conducted by bank holding companies and their nonbank subsidiaries. In enacting section 4, Congress contemplated that companies that engage in and control subsidiaries that engage in impermissible activities and that hold impermissible investments would seek to become bank holding companies.<sup>10/</sup> Consequently, section 4 by its express terms delays the applicability of the nonbanking prohibitions of that section to the existing investments and activities of any company that becomes a bank holding company to give that new bank holding company a period of time to conform existing investments and activities to the requirements of the BHC Act.<sup>11/</sup> For any company that becomes a bank holding company, section 4 provides an automatic two-year delay in applying the nonbanking prohibitions to existing investments and activities, beginning from the date the company becomes a bank holding company.<sup>12/</sup> The

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<sup>10/</sup> See, e.g., H.R. Rep. No. 84-609, at 24 (1955) (owning nonbanking shares and engaging in impermissible nonbanking businesses only "become unlawful" two years from the date of enactment or "after a company becomes a bank holding company, whichever is later").

<sup>11/</sup> Several commenters contended that the delay in applying the nonbanking restrictions in section 4 was intended to apply only to companies that became bank holding companies as a result of enactment of the BHC Act in 1956 or amendments to the Act in 1970. The terms of the BHC Act and the varying lengths of conformance periods provided for new bank holding companies and companies covered in 1956 and 1970 make clear that the reading suggested by these commenters is incorrect. See footnote 12.

<sup>12/</sup> Sections 4(a)(1) and (2) provide, in pertinent part:

[e]xcept as otherwise provided in this . . . [Act], no bank holding company shall --

(1) after May 9, 1956, acquire direct or indirect ownership or control of any voting shares of any company which is not bank, (2) or *after two years from the date as of which it becomes a bank holding company*, . . . retain direct or indirect ownership or control of any voting shares of any company which is

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two-year period is provided to bank holding companies as a matter of right and does not require the approval of the Board. Section 4(a)(2) specifically authorizes the Board, on request, to grant up to three one-year extensions of this two-year conformance period, if the Board finds that the extension "would not be detrimental to the public interest."<sup>13/</sup>

In granting a new bank holding company a period to conform its existing investments and activities to the requirements of the BHC Act, the Act does not distinguish among different types of activities.<sup>14/</sup> In fact, when the BHC Act was enacted in 1956 and it was amended to cover one-bank holding companies in 1970, the legislative history indicates that companies that controlled banks conducted a variety of impermissible activities, including insurance underwriting activities and various types of manufacturing activities. Nonetheless, the BHC Act provided the same conformance period for all types of nonconforming activities and investments.

The Board has consistently interpreted section 4(a)(2) as giving a new banking holding company at least a two-year period to conform to the BHC Act the nonbanking investments held and activities conducted by the company as of the date

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<sup>12/</sup>(...continued)

not a bank or bank holding company or engage in any activities other than (A) those of banking or of managing or controlling banks and other subsidiaries authorized under [the BHC Act] . . . , and (B) those permitted under [section 4(c)(8) of the BHC Act] . . . .

12 U.S.C. §§ 1843(a)(1) and (2) (emphasis added).

<sup>13/</sup> 12 U.S.C. § 1843(a)(2). See also 12 C.F.R. 225.22(f).

<sup>14/</sup> Some commenters have contended that the Board should not, in any event, allow affiliations between a banking organization and a company, such as Travelers, with a significant amount of insurance activities or other nonconforming activities.

it became a bank holding company.<sup>15/</sup> Several of these cases involved companies with a significant portion of nonconforming assets and activities, including manufacturing activities.<sup>16/</sup> In this case, the nonconforming activities currently conducted by Travelers represent approximately 25 percent of its total assets and less than 40 percent of its total revenues prior to the proposed transaction, and would represent less than 15 percent of the combined company's total assets and less than 20 percent of its revenues on a *pro forma* basis. Thus, it is not necessary for Travelers to change the nature of its business or to divest the very banks it is seeking to acquire in this application in order to conform to the requirements of the BHC Act. In this light, the Board does not believe that this proposal represents an attempt to evade the prohibitions of the BHC Act on the conduct of insurance or other impermissible activities by a bank holding company.

Several commenters have argued that Travelers should not be permitted to merge with Citicorp unless and until Travelers submits a detailed plan for divesting its insurance subsidiaries and conforming its other activities to the requirements of the BHC Act. In its application, Travelers has submitted substantial

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<sup>15/</sup> 12 C.F.R. 225.22(f). See Atico Financial Corporation, 73 Federal Reserve Bulletin 717 (1987) ("Atico Financial"); Newworld Bancorp, Inc., 73 Federal Reserve Bulletin 357 (1987); Korea First Bank, 70 Federal Reserve Bulletin 43 (1984); Banca Commerciale Italiana, 68 Federal Reserve Bulletin 423 (1982); Walter Heller International Corp., 59 Federal Reserve Bulletin 463 (1973) ("Walter Heller").

<sup>16/</sup> In 1973, in Walter Heller, the Board permitted Walter Heller International Corp. ("Heller") to become a bank holding company subject to the divestiture of its interests in manufacturing activities, which comprised approximately 12 percent of Heller's total income. In 1987, the Board approved the application of Atico Financial Corporation ("Atico"), a unitary savings and loan holding company, to acquire a bank and become a bank holding company subject to the requirement that the company divest its thrift subsidiary or convert the thrift to a bank insured by the Federal Deposit Insurance Corporation ("FDIC"). The thrift to be divested represented 44 percent of Atico's total deposits after consummation. See Atico Financial.

detail about the scope of its nonconforming activities and the steps available to Travelers to conform those activities and investments to the requirements of the BHC Act.

Travelers has specifically committed to conform all its current activities and investments to the requirements of the BHC Act within two years of the date of consummation of this proposal (or such extended period as the Board, in its discretion, may grant), including by modifying activities to meet the requirements of the Act, divesting impermissible investments, terminating various activities, and divesting subsidiaries as necessary. Travelers also has recognized that all its activities and investments after consummation of this proposal would be subject to the constraints in section 4 of the BHC Act. The Board concludes that, in light of the various alternatives available to Travelers to meet the requirements of the BHC Act, Travelers has provided sufficient detail to allow the Board to act on this proposal.

For the reasons above, the Board finds that the BHC Act does not require denial of this proposal based on the type, scope or amount of nonbanking activities currently conducted by Travelers. The Board's action on this case is subject to the condition that Travelers and Citigroup take all actions necessary to conform the activities and investments of Travelers and all its subsidiaries to the requirements of the BHC Act in a manner acceptable to the Board, including by divestiture as necessary, within two years of the date of consummation of the proposed acquisition of Citicorp.<sup>17/</sup> In addition, the Board's action on this proposal is subject to the condition that all investments and activities of Travelers and

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<sup>17/</sup> If before expiration of this two-year period Citigroup requests the Board to extend the conformance period, the Board would consider all the facts and circumstances existing at that time in accordance with its policies on divestitures, including consideration of Citigroup's good faith efforts to divest or otherwise conform its impermissible investments and activities. See Statement of Policy Concerning Divestitures by Bank Holding Companies, February 15, 1977.

Citigroup after consummation of the proposed acquisition of Citicorp conform to the requirements of the BHC Act and the Board's regulations and orders thereunder. During the section 4(a)(2) conformance period, Citigroup may not expand its investments and activities by acquiring direct or indirect control of, or all or substantially all the assets of, a company engaged in any activity, whether or not conducted by Travelers or one of its subsidiaries before becoming a bank holding company, unless otherwise authorized by the BHC Act.<sup>18/</sup>

#### Factors Governing Board Review of Transaction

The BHC Act specifically enumerates the factors that the Board must consider when reviewing the formation of a bank holding company and the acquisition of bank holding companies or banks. As the Board explained in testimony before Congress, the Board must consider the proposed transaction that is

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<sup>18/</sup> As an integral part of their insurance business, the Travelers insurance underwriting subsidiaries invest insurance premiums they collect in a variety of investments. A small amount of this investment activity, both in terms of the number of investments and the amount of premiums invested, involves ownership of more than 5 percent of the voting shares of various companies. This investment activity is subject to limitations on liquidity, diversification and amount under applicable state insurance laws. As noted above, Travelers must conform its ownership of its insurance underwriting subsidiaries to the requirements of section 4 of the BHC Act prior to the conclusion of the conformance period provided in the Act. Congress contemplated that, during this conformance period, a new bank holding company would continue fully to operate nonconforming subsidiaries to be able to obtain full value upon the sale of the subsidiary. Consequently, under section 4(a)(2), the Travelers insurance underwriting subsidiaries may continue their current investment activity and retain their current nonconforming investments subject to the requirement of section 4(a)(2) that these investments and activities be conformed to the requirements of section 4(c) of the BHC Act prior to the end of the conformance period. This is also subject to the conditions that the investment activity involving the acquisition of more than 5 percent of the shares of a company remain a small portion of the insurance underwriting subsidiaries' equity investment portfolios, not result in the subsidiaries acquiring control (for purposes of the BHC Act) of any company engaged in impermissible nonbanking activities, and not involve the acquisition of the voting shares of a bank or bank holding company.

presented and determine whether the proposal and the particular companies involved meet the statutory factors of the BHC Act. The Board is not granted authority under the BHC Act to disapprove a proposal that meets these statutory factors and complies with other relevant law.<sup>19/</sup> The Board, for example, cannot deny the proposal simply because Travelers and Citicorp are large organizations, if the proposal meets the statutory factors under the BHC Act and is consistent with other relevant law.

The factors that the Board must consider under the BHC Act in determining whether a company may become a bank holding company are the financial and managerial resources and future prospects of the companies and banks involved in the transaction; the competitive effects of the proposal in the relevant geographic markets; the convenience and needs of the communities to be served, including the records of performance under the 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.<sup>20/</sup> In addition, the Board must consider whether performance by the applicant and its nondepository institution subsidiaries of the proposed nonbanking activities can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as

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<sup>19/</sup> Statement of Laurence H. Meyer, Member of the Board, before the House of Representatives Committee on Banking and Financial Services, April 29, 1998.

<sup>20/</sup> In cases involving interstate bank acquisitions, the Board also must consider the concentration of deposits in the nation and certain individual states, as well as the compliance with the other provisions of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994. Pub. L. No. 103-328, 108 Stat. 2338 (1994). 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.

undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

#### Financial, Managerial and Supervisory Factors

The proposed combination of Travelers and Citicorp would create the largest financial services firm in the United States and the world, in terms of total assets. The companies view their proposed merger as a strategic alliance through which each company would continue to operate its separate businesses and would benefit from the other's strengths. Travelers and Citicorp believe that Citigroup would be financially stronger and more diversified than either organization separately, and that the formation of Citigroup would foster stronger domestic capital markets.

The Board has carefully considered the financial and managerial resources and future prospects of the companies and banks involved in the proposal, the effect the proposed transaction would have on those resources and other supervisory factors in light of all the facts of record, including public comments. A number of commenters expressed concerns about the financial and managerial resources of Travelers, Citicorp and the combined organization.<sup>21/</sup> In addition, commenters questioned whether the Board could adequately supervise the combined organization. Some commenters also questioned whether the activities of Citigroup, particularly its insurance activities, would present special risks to the federal deposit insurance funds or the financial system in general.<sup>22/</sup>

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<sup>21/</sup> The Board received comments criticizing the adequacy of the management of Travelers or Citicorp based on the manner in which their subsidiaries handled loan or financial service transactions in individual cases. The Board also has considered these comments in reviewing the convenience and needs factor in this case.

<sup>22/</sup> Several commenters urged the Board to establish higher capital levels for Citigroup to protect against the risks of Travelers's insurance and commodities activities and Citigroup's international exposures.



In considering financial and managerial factors, the Board has reviewed the consolidated financial position of Travelers and Citicorp, the financial position of each of their principal subsidiaries and the financial position of the *pro forma* organization. The Board also has considered confidential examination and other supervisory information assessing the financial and managerial strength of Citicorp and the insured depository institution subsidiaries of Travelers and Citicorp.<sup>23/</sup> In addition, the Board has reviewed public and confidential supervisory reports and information regarding the activities and financial position of the regulated subsidiaries of Travelers. The Board has also consulted with the relevant state and federal supervisors of the principal subsidiaries of Travelers and with the federal supervisory agencies of the insured depository institutions controlled by Citicorp. In addition, the Board has reviewed information submitted by both Travelers and Citicorp regarding the programs that the companies have implemented

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<sup>23/</sup> Some commenters referred to lawsuits or administrative actions involving Travelers or its subsidiaries. Several commenters noted that Travelers's subsidiary, Salomon Smith Barney Inc., had been the subject of several class action lawsuits and administrative actions or complaints related to its securities activities. These lawsuits, actions and complaints were resolved or settled, and Travelers has stated that Salomon Smith Barney Inc. has instituted policies and procedures and taken other actions to correct the deficiencies alleged in the lawsuits, actions, or complaints.

In addition, several commenters asserted that Salomon Smith Barney Inc. and a number of other securities firms currently are under investigation for alleged improprieties in connection with their municipal bond activities. A commenter also noted that Travelers's consumer finance subsidiary, Commercial Credit Company, is a defendant with other consumer finance companies in pending judicial proceedings, including lawsuits alleging that these companies have engaged in improper lending and credit insurance practices. Some commenters also noted that several complaints alleging violations of fair lending laws by certain consumer finance and insurance subsidiaries of Travelers have been filed with the U.S. Department of Housing and Urban Development ("HUD"). There have been no adjudications of wrongdoing by Travelers or any of its subsidiaries in any of these matters, and each matter is before a forum that can provide adequate redress if the allegations of wrongdoing can be sustained.

to prepare their systems for the Year 2000 and confidential examination and supervisory information assessing Citicorp's efforts to ensure Year 2000 readiness.

The Board has consistently considered capital adequacy to be an especially important aspect in analyzing financial factors.<sup>24/</sup> Citicorp and all the subsidiaries of Citicorp and Travelers that are subject to regulatory capital requirements currently exceed the relevant requirements. In addition, Citicorp and all of the subsidiary depository institutions of Citicorp and Travelers currently are well capitalized under applicable federal guidelines. Citigroup also would be well capitalized on a *pro forma* basis on consummation of the transaction. The proposed transaction is structured as a stock-for-stock combination and would not increase the debt service requirements of the combined company. In addition, both companies have reported positive earnings in recent periods. The Board also has reviewed the potential effect on Citigroup of actions that would be required to conform its activities to the requirements of the BHC Act, and concluded that, while the actions include potential divestitures that may be material, they should not raise concerns regarding capital adequacy.

The senior management of Citigroup would be drawn from the senior management of Travelers and Citicorp.<sup>25/</sup> Citicorp and its depository institutions

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<sup>24/</sup> See Chemical Banking Corporation, 82 Federal Reserve Bulletin 230 (1996).

<sup>25/</sup> Several commenters alleged that the current management of Travelers and Citicorp, and the proposed management of Citigroup, would not include a sufficient number of minorities. The racial and gender composition of management and the breadth of an organization's internal policies on employment discrimination are not factors the Board is permitted to consider under the BHC Act. The Board notes that the Equal Employment Opportunity Commission has jurisdiction to determine whether companies like Travelers or banking organizations like Citicorp are in compliance with federal equal employment opportunity statutes under the regulations of the Department of Labor. See 41 C.F.R. 60-1.7(a) and 60-1.40.

A commenter also alleged that certain management officials of Salomon

are well managed, and the Board has extensive experience with the senior management of the organization. While the Board has not had direct experience with the management of Travelers, the company's senior management has extensive experience in the operations of Travelers's different business lines, and the Board has considered information from other functional supervisors regarding their experience with management of various Travelers subsidiaries. Further, Travelers and Citicorp currently have appropriate risk-management processes in place, and Citigroup is expected to have in place a risk-management structure sufficient to monitor and manage the risks of a diverse organization, including the insurance risks that would exist during the section 4(a)(2) conformance period. Both companies have comprehensive programs designed to ensure compliance with relevant laws and regulations, including those pertaining to consumer protections. These programs would be retained after consummation and adapted to create a comprehensive compliance program for Citigroup.

The Board has extensive experience supervising Citicorp, which is a complex worldwide financial institution. Building on this experience, the Board has developed a supervisory plan that, in the Board's view, would permit the Board to

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<sup>25/</sup>(...continued)

Smith Barney Inc. engaged in sexual harassment in the workplace. Travelers denied the allegation and explained the policies and procedures it has implemented to avoid any such conduct. Several commenters also noted that Salomon Smith Barney Inc. was a defendant in a judicial proceeding regarding alleged employment discrimination and sexual harassment and the securities industry's system of settling employment disputes through mandatory industry arbitration. The court in this proceeding recently approved a proposed settlement, which included the establishment of a more independent arbitration process, a comprehensive diversity training program, and an audit and reporting system.

There has been no finding by an appropriate authority or court that either Travelers or Citicorp is in violation of applicable employment laws. The Board expects all banking organizations to comply with applicable federal, state and local laws.

monitor and supervise the combined organization effectively on a consolidated basis. The plan involves, among other things, continuous holding company supervision, including both on- and off-site reviews, of the combined organization's material risks on a consolidated basis and across business lines; access to and analyses of the combined organization's internal reports for monitoring and controlling risks on a consolidated basis; and frequent contact with the combined organization's senior management and risk management personnel. The processes implementing the plan would be coordinated with those of the functional regulators for a number of Citigroup's subsidiaries, including regulated securities and insurance activities. The Board expects that management of Citigroup will cooperate fully with this supervisory plan to ensure that the Board has complete access to information on the combined organization's operations, risks, risk management, financial condition, and efforts to ensure Year 2000 compliance. In addition to furnishing copies of certain reports filed with primary insurance and securities regulators, it is the Board's expectation that Citigroup will cooperate fully in providing specialized financial data requested by the Board for the supervision of financial conglomerates.

For these reasons, and based on all the facts of record, including review of the comments, the Board has concluded that considerations relating to the financial and managerial resources and future prospects of Travelers, Citicorp, their respective subsidiaries, and Citigroup and other supervisory factors are consistent with approval of the proposal under the BHC Act.

#### Competitive Aspects Under Section 3 of the BHC Act

Section 3 of the BHC Act prohibits the Board from approving a proposal to acquire a bank that would result in a monopoly or that would substantially lessen competition in any relevant banking market, if the anticompetitive effects of the proposal are not 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.<sup>26/</sup>

The proposal involves the acquisition of banks by Travelers, which does not own a commercial bank. Travelers owns a savings association, a limited-purpose credit card bank and a variety of nonbanking companies. Based on all the facts of record, the Board has determined that consummation of the proposal by Travelers to acquire the subsidiary banks of Citicorp would not likely result in a significantly adverse effect on competition or on the concentration of banking resources in any relevant banking market. Accordingly, the Board has determined that competitive factors under section 3 of the BHC Act are consistent with approval of the proposal. The competitive effects of the proposed nonbanking activities are discussed below.

#### Convenience and Needs Factor

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 financial supervisory agency to take into account an institution's record of meeting the credit needs of its entire community, including LMI neighborhoods, in evaluating bank expansion proposals. The Board has carefully considered the convenience and needs factor and the CRA performance records of the subsidiary depository institutions of Citicorp and Travelers in light of all the facts of record, including public comments on the proposal.

#### A. Summary of Public Comments on Convenience and Needs Factor

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<sup>26/</sup> 12 U.S.C. § 1842(c)(1).

The Board provided an extended period for public comment on the proposal and convened a public meeting in New York to collect information on the statutory factors the Board is required to consider, including the effect of the proposal on the convenience and needs of the affected communities and the CRA performance records of the insured depository institutions involved. As noted above, more than 425 interested members of the public either submitted written remarks or testified at the public meeting.

More than 320 commenters supported the proposal or commented favorably on the CRA-related activities or other community-related activities of Citicorp or Travelers. Commenters who expressed support for Citicorp represented a wide variety of entities, including public and private community development and social welfare organizations, educational and artistic nonprofit organizations, religious organizations, and educational entities.<sup>27/</sup> A number of these organizations commended Citicorp for providing their organizations with charitable gifts, loans, equity products developed by Citicorp, and tax credit investments.<sup>28/</sup> A number of

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<sup>27/</sup> Several commenters argued that the Board should give less weight to comments supporting the proposal if the commenter received financial assistance from Travelers or Citicorp. The Board notes that the number of comments is discussed in this order only to indicate the degree of public interest in the proposal, and is not a numerical weighing by the Board of the favorable or unfavorable comments. The Board has carefully considered the substance of oral and written submissions in light of the entire record in this case and the factors the Board is required to consider under the BHC Act.

<sup>28/</sup> These commenters included: (1) two members of the U.S. House of Representatives from Florida; (2) local government officials, including the governors of Florida, Nevada and Guam, state senators and representatives from New York, Florida and Guam, and the mayor of Las Vegas; (3) Greater Rochester Housing Partnership; (4) New York City Housing Partnership; (5) Greater Harlem Housing Development Corporation; (6) Local Initiatives Support Corporation (New York); (7) Low Income Housing Fund (New York); (8) American Red Cross (New York Chapter); (9) Florida Community Loan Fund; (10) Habitat for

(continued...)

state and local government officials commented favorably on their experiences with Citicorp and praised Citicorp for helping their communities as a significant employer, a leader in community development and a generous benefactor. Some affordable housing and economic development organizations commended Citicorp as a corporate leader that helped mobilize community action on their behalf or created useful products and services, such as tax credits, to assist them. Numerous commenters also noted that Citicorp provided community organizations with grants for their general operational needs and fund raising efforts, technical assistance for their organizational staff, and training or counseling for their constituent communities. In addition, several minority or women business owners commended Citicorp for providing small business loans, technical assistance and educational programs.

Commenters who expressed support for Travelers included organizations involved in microeconomic development, job training, social welfare, medical research, and education, and certain local government agencies. These commenters reported that Travelers has assisted them by providing grants, in-kind donations of equipment and office space, and advisory services. Citicorp and Travelers also were commended for permitting their officers and employees to volunteer or serve on the organizations' boards of directors.

Several small business owners also supported the proposal for Citigroup to cross-market loan, insurance and investment products. These commenters believed that allowing "one-stop shopping" for all types of financial

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<sup>28</sup>(...continued)

Humanity of Broward, Inc. (Florida); (11) Resources for Community Development (California); (12) Lenders for Community Development (California); and (13) community development organizations, nonprofit organizations and small businesses in Alabama, Connecticut, Delaware, Maryland, Massachusetts, Nevada, New Jersey, Pennsylvania, Rhode Island, South Dakota, Virginia, Washington, D.C., Guam, Puerto Rico, and U.S. Virgin Islands.

products would increase convenience and efficiencies, particularly for small businesses.

In addition, a number of commenters praised the Citigroup community pledge and asserted that the lending, investment and financial-education components of the pledge would help LMI communities and the economy generally. Several commenters also believed that the urban insurance components of the Citigroup community pledge would increase the availability of homeowners insurance in several urban areas.

More than 105 commenters either opposed the proposal, requested that the Board approve the merger subject to conditions suggested by the commenter, requested delay of Board action or expressed concerns about the CRA performance record of Citicorp or the record of Travelers with regard to Travelers's lending and insurance related activities.<sup>29/</sup>

A number of commenters contended that Citicorp has an inadequate record of mortgage lending to LMI and minority individuals and communities, particularly in New York and California. Commenters alleged that Citicorp makes few direct mortgage loans in LMI or minority communities, relying instead on intermediaries to make such loans, and that Citicorp does not offer sufficient

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<sup>29/</sup> These commenters included: (1) several members of the U.S. House of Representatives, including members from California and New Jersey; (2) Independent Bankers Association of America; (3) Consumers Union; (4) Citicorp-Travelers Watch (a consortium of ten community advocacy organizations in New York City); (5) Inner City Press/Community on the Move; (6) Association of Community Organizations for Reform Now; (7) Greater Rochester Community Reinvestment Coalition; (8) New Jersey Citizens Action; (9) California Reinvestment Committee; (10) The Greenlining Institute; (11) The National Organization of Women; and (12) community groups, nonprofit organizations, bank associations, banks, and individuals in Arizona, California, Connecticut, Delaware, Florida, Georgia, Indiana, Iowa, Kansas, Maryland, Massachusetts, Minnesota, Missouri, New Hampshire, New Jersey, New York, South Carolina, South Dakota, Texas, Wisconsin, and Washington, D.C.



mortgage loans for multifamily housing. Citicorp's policies on branch location, outreach efforts and customer service were alleged to discourage minority families from applying for loans, and to result in directing capital away from LMI and minority communities throughout its assessment area. Commenters also maintained that Citibank has an inadequate record of small business lending in LMI and minority communities and that the proposed transaction would result in fewer loans to small businesses. A number of commenters criticized the lending record of Citicorp evidenced in data submitted by the banking organizations under the Home Mortgage Disclosure Act (12 U.S.C. § 2801 *et seq.*) ("HMDA").<sup>30/</sup>

In addition, a number of commenters maintained that Citicorp has abandoned LMI communities, particularly those in New York, and has disproportionately closed branches and downgraded branches to Automated Teller Machines ("ATMs") or video branches without on-site personnel in those communities. Commenters also contended that the merger would result in fewer community investments and development activities in the future, particularly in minority communities.

Some commenters questioned the compliance of certain Travelers subsidiaries with fair lending laws, criticized the lending practices of Travelers's subprime lending subsidiaries, and asserted that Travelers has failed to meet the convenience and needs of LMI communities through the interrelated activities of its insurance and lending subsidiaries. Several commenters alleged that these subsidiaries market higher-cost loans and overpriced, misleading term life insurance products to LMI and minority consumers.

Commenters opposing the proposal also maintained that Travelers excludes LMI and minority communities from conventional homeowners insurance

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<sup>30/</sup> Commenters also asserted that Citicorp and Travelers have discriminated in conducting business with minority vendors or providing equity capital for businesses owned by women and minorities.

coverage through its marketing efforts and underwriting policies. Furthermore, commenters alleged that the requirements for, and terms of, Travelers's insurance policies have a disparate and discriminatory impact on LMI and minority communities.

A number of commenters also criticized the Citigroup community pledge. Many of those commenters asked the Board to disregard the pledge because it was too small and failed to delineate specific amounts of lending and investment programs for particular state or local markets. The pledge also was criticized by commenters as focusing primarily on consumer lending that would not help increase home mortgage and small business loans in LMI or minority communities. Some commenters contended that the Citigroup community pledge would harm LMI and minority communities if it were implemented through the marketing of expensive or unsuitable consumer credit, insurance and investment products.

Numerous commenters also argued that the merger would result in a two-tiered structure through which Citigroup would market higher-cost loan and insurance products to LMI and minority communities, while marketing competitively priced loan and insurance products to more affluent communities. Several commenters also expressed concern that the merger might undermine the CRA by encouraging a shift of banking assets and operations to nonbanking affiliates that are not subject to the CRA. <sup>31/</sup>

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<sup>31/</sup> Several commenters also opposed the proposal based on unfavorable experiences with Citicorp or Travelers in particular credit, transactional account or business dealings. The Board has reviewed these comments in light of all the facts of record, including information provided by Citicorp and Travelers, and the Board has provided copies of these comments to the appropriate federal or state supervisor.

B. CRA Performance Records

In its consideration of the convenience and needs of the communities to be served by Citigroup, the Board has reviewed in detail the CRA performance records of Citicorp and Travelers, including their mortgage and small business lending records, community development and investment programs and initiatives to increase lending in LMI areas in states served by their subsidiary insured depository institutions.<sup>32/</sup> Travelers proposes to continue Citicorp's current CRA organization, policies and programs, including its proprietary affordable home-related lending products, participation in national and local government guaranteed or subsidized loan programs, and community and economic development activities.

C. CRA Performance Examinations

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 conducted by the appropriate federal supervisory agency. An institution's most recent CRA performance evaluation is a particularly 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 its appropriate federal financial supervisory agency.<sup>33/</sup>

Citicorp's lead subsidiary bank, Citibank, which primarily serves the metropolitan New York City area, received a "satisfactory" CRA performance

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<sup>32/</sup> Some commenters asserted that lending to small businesses declines as a result of large bank mergers. The Board has considered these comments in light of Citicorp's record of lending performance, including its record of assisting in meeting the credit needs of small businesses.

<sup>33/</sup> The Statement of the Federal Financial Supervisory Agencies Regarding the Community Reinvestment Act provides that a CRA examination is an important and often controlling factor in the consideration of an institution's CRA record and that reports of these examinations will be given great weight in the applications process. 54 Federal Register 13,742 and 13,745 (1989); see also 62 Federal Register 52,150 (1997).

rating from the Office of the Comptroller of the Currency ("OCC") at its most recent examination for CRA performance, as of October 1996.<sup>34/</sup> Citibank accounts for approximately 68 percent of Citicorp's total domestic deposits. Citibank New York State, Pittsford, New York ("Citibank NYS"), received a "satisfactory" rating from the FDIC and the New York State Banking Department ("NYSBD") at its most recent examination for CRA performance, as of March 1998.<sup>35/</sup> In addition, Citibank, Federal Savings Bank, San Francisco, California ("Citibank FSB"), received an "outstanding" CRA performance rating from the Office of Thrift Supervision ("OTS"), as of March 1997.<sup>36/</sup> The OTS based its overall "outstanding" CRA performance rating of Citibank FSB on assessments of the institution's performance in five markets. Citibank FSB received an "outstanding" rating in three of these areas, California, Florida and Illinois, and a "satisfactory" rating in Connecticut and the Washington-Baltimore area.<sup>37/</sup>

Travelers's subsidiary depository institutions, The Travelers Bank and The Travelers Bank USA, both in Newark, Delaware, each received a "satisfactory"

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<sup>34/</sup> The examination included evaluation of Citibank's CRA performance in its assessment areas in Guam, Puerto Rico, and U.S. Virgin Islands.

<sup>35/</sup> Citibank NYS has branches in the Buffalo and Rochester metropolitan areas.

<sup>36/</sup> Citibank FSB has branches in California, Connecticut, Florida, Illinois, Maryland, New Jersey, Virginia, and Washington, D.C. Citibank FSB also recently opened a branch in Texas, which primarily serves Citicorp employees at a service center facility.

<sup>37/</sup> Citibank (Nevada), N.A., Las Vegas, Nevada, received a "satisfactory" rating from the OCC, as of May 1997; Citibank Delaware, New Castle, Delaware, a limited-purpose bank, received a CRA rating of "outstanding" from the FDIC, as of November 1996; Citibank South Dakota, N.A. Sioux Falls, South Dakota ("Citibank SD"), a limited-purpose bank, received an "outstanding" rating from the OCC, as of June 1997; Universal Bank, N.A., Columbus, Georgia, a limited-purpose bank, received a "satisfactory" rating from the OCC, as of August 1996; and Universal Financial Corporation, Salt Lake City, Utah, an industrial loan company, received a "satisfactory" rating from the FDIC, as of January 1996.

CRA performance rating from the FDIC, as of March 1997. The Travelers Bank was converted to Travelers Bank and Trust, fsb ("Travelers FSB") on November 24, 1997, and has not been examined for CRA performance under its new charter.

Examiners did not note any evidence of discrimination or other illegal credit practices during any of the most recent CRA performance examinations. In addition, examiners did not identify any practices intended to discourage applications for the types of credit offered by Citicorp's or Travelers's depository institution subsidiaries.<sup>38/</sup>

#### D. Citicorp's CRA Performance Record

*Overview.* Citicorp has various programs and policies for ascertaining the credit needs of the community and implementing programs to help address those needs. Citicorp has recently implemented a number of changes to these programs and policies to improve its lending performance and to address weaknesses in its earlier efforts.

For example, Citicorp originated or purchased more than 30,000 HMDA-reported loans in 1997, totaling \$5.9 billion, including approximately 4,400 loans totaling \$514 million in LMI communities.<sup>39/</sup> This amount of lending represented a 44-percent increase over 1996 in the number, and an 86-percent increase in the total dollar amount, of home mortgage loans in LMI communities. Citicorp reported that in 1997 it extended \$146 million in loans to

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<sup>38/</sup> Several commenters alleged that Travelers and Citicorp should purchase more goods and services from businesses owned by women and minorities. Although the Board fully supports programs designed to stimulate and create economic opportunities for all members of society, the Board concludes that consideration of vendor purchase contracts of Travelers and Citicorp is beyond the scope of the CRA and other relevant federal banking statutes.

<sup>39/</sup> The lending data in this order include data for CMI, the New York assessment areas of Citibank and Citibank NYS, and all the assessment areas of Citibank FSB, unless otherwise indicated.

LMI borrowers or in LMI communities through 70 national and local affordable housing mortgage programs, which offer a variety of low down-payment options, higher-than-normal qualifying ratios and other flexible underwriting standards.

Some categories of Citicorp's home mortgage lending to LMI and minority borrowers and communities in 1996 and 1997 were below the percentages for the aggregate in several of Citicorp's CRA assessment areas.<sup>40/</sup> In 1997, Citicorp implemented a number of changes in its marketing and underwriting divisions, marketing efforts and home mortgage loan products and programs to increase its lending to LMI and minority residents and communities nationwide. Citicorp reported that in 1998 these changes increased the percentage of home mortgage lending to LMI and minority borrowers and in LMI and predominantly minority census tracts in most of the assessment areas of Citibank, Citibank FSB and Citibank NYS.

Citicorp created two specialized units to serve LMI customers: the Homeownership Development Unit, which develops products and recommends credit policy changes to serve the needs of LMI customers, and the Community Lending Underwriting Team, which underwrites affordable mortgages for LMI customers. Citicorp also expanded the mortgage sales force in its assessment areas to include specialized teams of Community Mortgage Consultants ("CMCs") for the specific purpose of originating loans to LMI borrowers and in LMI communities. In addition, Citicorp hired additional employees nationally to focus on developing business with real estate brokerage companies owned by minorities and brokers who serve LMI and ethnically diverse communities. Citicorp hired additional employees in California and New York to focus on building business relationships with companies owned by minorities and companies with a high concentration of

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<sup>40/</sup> The aggregate represents the cumulative lending for all financial institutions that have reported HMDA data in a given market.

ethnically diverse employees and to offer mortgages to the employees of such companies. Citicorp also increased its marketing to LMI and minority communities and households.

Significantly, Citicorp introduced new or expanded products and programs designed to increase credit opportunities for LMI borrowers. Citicorp, for example, reintroduced the CitiAffordable Purchase Assistance Program, which provides for a minimum down payment of \$500, flexible qualifying ratios, and an unsecured installment loan for down-payment and closing-cost assistance. Citicorp also expanded the availability of its CitiAffordable Mortgage Program to cooperatives. This product provides for a minimum down payment of 2 percent from the borrower's own funds and a maximum loan-to-value ratio of 97 percent. In 1997 and the first quarter of 1998, Citibank originated loans totaling more than \$35 million through these products and programs.

In 1996 and 1997, Citicorp also increased access to credit for LMI borrowers by expanding its home improvement credit products to offer more flexible underwriting standards and to require no application, appraisal or annual fees. Citicorp, for example, adjusted its underwriting criteria to allow loan-to-value ratios of 100 percent for loans up to \$25,000. In 1997, Citicorp also introduced an unsecured home improvement loan product for LMI borrowers financing amounts as low as \$500. Citicorp conducted a pre-approved, direct-mail marketing of this product primarily to LMI residents, which resulted in \$12 million in loans.

In 1997, Citicorp originated more than 12,000 small business loans, totaling \$1.2 billion, which included more than 2,300 loans, totaling more than \$260 million in LMI census tracts and representing 22 percent of the total dollar amount of Citicorp's small business loans.<sup>41/</sup> This level of lending represents an increase

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<sup>41/</sup> Some commenters maintained that Citibank has a minimum loan amount of \$100,000 for small business loans, which excludes most small businesses in LMI  
(continued...)

over 1996 of 20 percent in the number, and 23 percent in the total dollar amount, of small business loans in LMI census tracts. To expand financing opportunities for businesses that generally would not qualify for conventional loans, Citicorp offers a variety of Small Business Administration ("SBA") loan programs, which offer loans of \$2,500 up to \$10 million. Citibank is one of only two banks in New York offering the SBA's FASTRACK program authority, under which Citibank may originate loans up to \$100,000 with a 50-percent SBA guarantee through a streamlined application process. In 1997, the SBA extended the FASTRACK program to Citibank in California, Connecticut, Florida, Illinois, and New Jersey. Citicorp also developed the SBA Capital Access program, which provides loans of up to \$250,000 to businesses owned by minorities or women, high-tech firms, and high-growth importers and exporters. This program was offered in Citicorp's California and Florida markets as a pilot program. In 1997, Citibank FSB was named SBA Lender of the Year. In addition, Citicorp extends loans of up to \$50,000 through its Character Lending Program ("character loans") to creditworthy entrepreneurs who cannot qualify for SBA loans. Since 1993, Citicorp has made loans totaling approximately \$33 million under this program in New York, California and Nevada.

Citicorp also is an active participant in community and economic development projects and programs. Citicorp reported that in 1997 it increased its new community development lending originations to \$230 million, an increase of 59 percent over 1996. Citibank and the Citicorp Foundation also made grants

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<sup>41</sup>(...continued)

census tracts and businesses owned by minorities. Citicorp reported that in 1997 it extended approximately 10,000 loans that were in amounts of less than \$100,000.



totaling \$26 million to support affordable housing, revitalization of LMI communities and nonprofit community service providers. <sup>42/</sup>

As noted above, the appropriate federal supervisory agencies conducted CRA performance examinations of Citibank in 1996, Citibank FSB in 1997, and Citibank NYS in 1998 ("Citibank Examinations"). Examiners concluded that the geographic distribution of the institutions' lending throughout their communities, including LMI communities, was adequate. Examiners also reported that the delineations of the institutions' communities were reasonable and did not arbitrarily exclude LMI census tracts.

Examiners found that the institutions provided an array of credit products designed to assist in meeting the credit needs in their assessment areas, including innovative and flexible products to meet the credit needs of LMI communities. These products included the proprietary CitiAffordable Mortgage program, CitiAffordable Purchase Assistance program, and home improvement loan products. Examiners also noted that Citicorp participates in a number of government-subsidized loan programs that provide low-down-payment financing, below-market interest rates, and/or closing-cost assistance to LMI borrowers, including the Enhanced Fannie Neighbors with the Community Home Buyers Program and the Fannie 97 Affordable Mortgage Program through the Federal National Mortgage Association ("FNMA") and the Affordable Gold Program through the Federal Home Loan Mortgage Corporation ("FHLMC"). In 1997, Citicorp originated loans totaling \$89 million under these programs. <sup>43/</sup>

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<sup>42/</sup> Some commenters maintained that Citigroup's CRA investment in the inner-cities was threatened by Citicorp's Asian lending and its compensation packages to management.

<sup>43/</sup> All discussion of lending activities noted in the Citicorp Examinations are for the assessment periods covered by the examinations, unless otherwise indicated. Those periods are as follows: Citibank (September 10, 1994, through October 4, (continued...))

The Citibank Examinations concluded that the institutions were involved in community and economic development activities. Citicorp provided loans for the acquisition, construction, rehabilitation, and permanent financing of affordable multifamily rental, owner-occupied and special-needs housing. In addition, Citicorp provided funding for projects that support small businesses and promote job creation in LMI neighborhoods, including participation in lending consortia in partnership with nonprofit organizations or government agencies. Citicorp also made community development investments, including investments in community development financial institutions, intermediary loan funds, low-income housing tax credits, and securities backed by mortgage loans to LMI borrowers or on properties in LMI areas.

In addition, the Citibank Examinations noted no evidence of discrimination or other illegal credit practices.<sup>44/</sup> Examiners found that the institutions had implemented various programs to promote and ensure compliance with fair lending laws and regulations, including compliance department audits, multilevel review processes for any proposed loan denials for applicants with incomes below specified thresholds, annual self-assessments, and annual "mystery shopper" testing. Examiners also reported that the institutions conducted ongoing fair lending law training for their employees.

*Citibank.* Citibank is the lead bank among Citicorp's depository institution subsidiaries, and holds approximately 68 percent of Citicorp's total domestic deposits. The 1996 OCC examination of Citibank reported that the bank

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<sup>43/</sup>(...continued)

1996); Citibank NYS (January 1996 through December 1997); and Citibank FSB (January 1995 through December 1996).

<sup>44/</sup> The 1998 FDIC examination of Citibank NYS and the 1997 OTS examination of Citibank FSB reported no substantive violations of the fair lending laws and regulations.

extended a wide variety of loan products that helped to address housing-related, consumer and small business credit needs of its New York City assessment area.<sup>45/</sup> Examiners found that Citibank had sound marketing and advertising programs in place to inform all segments of its community of the credit services offered by the bank. In addition, examiners found a reasonable penetration of lending in all segments of Citibank's delineated community, including LMI areas.<sup>46/</sup>

Examiners noted that Citibank offered proprietary home lending products that provided lower down-payment requirements, closing-cost assistance and flexible underwriting criteria, and also affect flexible, low-interest home mortgage loans under loan programs sponsored by the State of New York Mortgage Agency ("SONYMA"). Citibank originated 105 SONYMA loans totaling \$10 million. OCC examiners also reported that in 1996 Citibank introduced several new initiatives to increase home ownership opportunities for first-time home buyers and LMI families in New York. Citibank, for example, began offering mortgages guaranteed by the Federal Home Administration ("FHA") in 1995. In addition, Citibank began participating in the New York City Housing Partnership New Home Program ("NYC New Home Program"), through which it made mortgage loans available to home buyers in two multi-family housing projects in Queens. In addition, Citibank introduced a new product called Neighbor Works Affordable Rehabilitation Mortgage Program ("Neighbor Works Mortgage Program") in

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<sup>45/</sup> Citibank's New York assessment area is comprised of the entire New York, New York, Metropolitan Statistical Area ("MSA"), except for Putnam County, and the Nassau/Suffolk MSA.

<sup>46/</sup> Examiners found that the geographic distribution of Citibank's consumer and small business loans was strong, but that Citibank's percentage of home mortgage lending in the LMI census tracts of its New York assessment area was below the percentage of the aggregate in such census tracts. They also found that Citibank's percentage of home mortgage lending to LMI borrowers in New York was comparable with the percentage for the aggregate.

partnership with Neighborhood Housing Services of New York ("NHS"), FNMA and FHLMC. This loan product combined a low down payment for home purchase and rehabilitation mortgages with NHS's education and technical assistance programs. In 1997, Citibank originated approximately \$5 million of loans under the NYC New Home Program and the Neighbor Works Mortgage Program.

Examiners found that Citibank offered a variety of specially designed credit products for small businesses and was an active small business lender, including through participation with SBA loan programs. Examiners reported that 18 percent of Citibank's small business loans in its New York assessment area were made to businesses in LMI census tracts. Examiners also reported that 40 percent of Citibank's small business loans were for amounts of less than \$25,000, and 89 percent were in for amounts of less than \$100,000.

Examiners reported that Citibank began several initiatives in 1995 and 1996 to help meet the credit needs of small businesses in New York. Examiners noted that in 1995 Citibank began to take a more active role in SBA loan programs and introduced the SBA's FASTRACK program. From October 1995 to October 1996, Citibank originated 162 SBA loans totaling \$18 million. In addition, Citibank assigned 54 small-business representatives to its branches and streamlined its approval process for small business loans. Citibank also lowered its minimum amount for lease financing to small businesses for commercial equipment to \$2500. In 1997, Citibank made more than 1000 small business loans, totaling \$104 million in LMI census tracts in its New York assessment area and representing 19 percent of the total dollar amount of its small business loans. This level of lending represented a 22-percent increase over 1996 in the total dollar amount of small business loans in LMI census tracts in Citibank's New York assessment area.

In addition, examiners found that Citibank played a leadership role in activities that promoted affordable housing, economic development and community services. Examiners reported that Citibank maintained a high level of participation,

including investments in community development projects and programs in its delineated areas. In addition, examiners noted that Citibank worked with community development groups, intermediaries and government organizations engaged in providing community development financing for large affordable housing projects, participating in equity funding pools for small businesses and providing loans to nonprofit providers of health and social services.

Examiners also reported that Citibank originated \$93 million in community development loans in its New York assessment area, including \$49 million in affordable housing loans and construction financing for affordable housing, which provided more than 2,400 affordable housing units in LMI communities or targeted for LMI individuals.<sup>47/</sup> The 1996 OCC examination described Citibank as one of the lead banks in the Neighborhood Entrepreneur Program, which accelerated the redevelopment and sale of properties owned by New York City and distressed city blocks. Through this program, Citibank provided a \$9.6 million loan to renovate 114 rental units in the Bronx and a \$13.6 million loan to construct 169 units in central Harlem.<sup>48/</sup>

Examiners also reported that Citibank originated \$26 million in loans for 400 units of affordable housing in New York City in connection with New York City Housing Partnership programs. In addition, examiners noted that Citibank had provided \$3.5 million in funding for the loan pool of the New York Business Development Corporation, which provided financial assistance to existing and new small- and medium-size businesses in New York.

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<sup>47/</sup> Some commenters criticized Citicorp for not making any direct multifamily housing loans in New York City or San Francisco. Citicorp stated that it helps to meet the need for multifamily housing as an active construction lender for multifamily housing projects.

<sup>48/</sup> Citibank reported that it has provided a total of \$63 million in construction financing for this program.

*Citibank NYS.* Citibank NYS is a state-chartered bank that operates primarily in Upstate New York. The 1998 FDIC examination of Citibank NYS concluded that the bank's level of home mortgage and small business loans reflected good responsiveness to the credit needs of its assessment areas. The 1998 NYSBD examination of Citibank NYS concluded that the geographic distribution of the bank's loans reflected good penetration throughout its assessment area and among customers of different income levels.

FDIC examiners found that the bank's percentage of its home purchase mortgage lending to LMI individuals and in LMI communities was close to or exceeded the percentage for the aggregate in 1995 and 1996. In addition, they found that the bank's percentage of mortgage refinancing and home improvement lending to LMI individuals and in LMI communities generally was comparable to or less than the percentage for the aggregate during this time period.<sup>49/</sup> FDIC examiners noted that, in 1997, Citibank NYS's management began taking steps to improve its performance in these areas, including by increasing its advertising in LMI communities to reach more potential borrowers for refinancing and home improvement loans.

FDIC and NYSBD examiners found that the bank offered various flexible lending products with low-down payment options that are attractive to first-time home buyers, including loans guaranteed by the FHA, the Veterans Administration and SONYMA. In 1996 and 1997, Citibank NYS originated loans totaling \$7.9 million under these programs. NYSBD examiners noted that, in 1997,

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<sup>49/</sup> NYSBD examiners reported that the total number of Citibank NYS's residential real estate loans originated in LMI areas, as a percentage of total loans, was less than the percentage for the aggregate in 1996 and increased in 1997. In addition, examiners noted that Citibank's percentage of home purchase mortgage loans extended to LMI borrowers in 1996 was well below the percentage for the aggregate, but that the bank's percentage of such loans to LMI borrowers increased significantly in 1997.

Citibank re-introduced the CitiAffordable Purchase Assistance Program and originated loans totaling \$2.1 million under this program. Examiners also reported that, in 1996 and 1997, Citibank NYS originated loans totaling \$3.4 million under the FNMA Enhanced Fannie Neighbors with the Community Homebuyers Program, the FNMA Fannie 97 Affordable Mortgage Program and the FHLMC Affordable Gold Program.

Examiners concluded that Citibank NYS's small business lending reflected a good dispersion throughout census tracts of all income levels, particularly LMI census tracts. Examiners noted that Citibank NYS's small business lending had increased 32 percent since 1996.<sup>50/</sup> Examiners also reported that, in 1996 and 1997, more than 30 percent of the total dollar amount, and more than 70 percent of the number, of the bank's small business loans were for amounts of less than \$100,000. During 1996 and 1997, the bank extended SBA loans totaling \$9.6 million in its assessment area and, in 1997, extended character loans totaling \$780,000.

The 1998 FDIC and NYSBD examinations also found that Citibank NYS was an active participant in community development projects and initiatives to construct or rehabilitate affordable housing, promote economic development and support community services. Examiners reported that Citibank NYS participated in lending initiatives totaling \$9.2 million during 1996, 1997 and the first quarter of 1998, of which \$2.5 million was for affordable housing and economic development programs, including the Greater Rochester Housing Partnership and NHS of Rochester ("GRHP"). In 1997, Citibank NYS extended two lines of credit totaling \$1.5 million to GRHP for construction of affordable single-family and multifamily housing. NYSBD examiners also noted that Citibank

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<sup>50/</sup> Although the percentage of these small business loans by number in LMI areas declined between 1996 and 1997, the percentage of such loans by dollar amount increased.

NYS made community development investments totaling \$5.6 million during 1996 and 1997, including low-income housing tax credits and investments in securities backed by mortgage loans to LMI borrowers or on properties in LMI areas.

*Citibank FSB.* The 1997 OTS examination found that Citibank FSB provided an array of credit products designed to meet many different community needs and continued to develop loan programs to meet the needs of LMI individuals. Examiners found that, although the percentage of home purchase mortgage lending of Citibank FSB and its affiliates in LMI census tracts in 1995 and 1996 was low in comparison to the percentage for the aggregate, their percentage of home improvement and multifamily home loans in LMI census tracts was comparable with or exceeded aggregate results. OTS examiners concluded that the levels of small business lending and amounts of consumer lending in LMI areas by Citibank FSB and its affiliates demonstrated a commendable commitment to meeting community credit needs.

The 1997 OTS examination report concluded that Citibank FSB affirmatively solicited credit applications from all segments of its delineated community and had an effective marketing program to inform residents, including those in LMI communities, of the institution's available credit products. Examiners noted that Citibank FSB offered various home mortgage products with flexible underwriting criteria in each of its assessment areas to help serve the needs of LMI residents, including its proprietary CitiAffordable Mortgage Program, the FNMA Community Home Buyers Program, and the FHLMC Affordable Gold Program. Examiners also reported that Citibank FSB participated in various government subsidized mortgage lending programs sponsored by local and state government agencies. According to examiners, Citibank FSB continued to expand its community development activities during 1995 and 1996.

Examiners also reported that Citibank FSB was an active small business lender and participant in SBA loan programs. In 1995 and 1996, Citibank



FSB originated 249 SBA loans totaling more than \$48 million. In 1995, Citibank FSB introduced the Capital Access Program in its California and Florida markets as a pilot program.

(1) *California.* Examiners determined that Citibank FSB demonstrated flexibility in developing products and participating in various programs to meet the credit needs of its California assessment areas.<sup>51/</sup> Citibank FSB, for example, originated more than 240 mortgage loans in 1995 and 1996 under its CitiAffordable Mortgage Program, FNMA's Community Home Buyers Program and FHLMC's Affordable Gold Program. Examiners also reported that Citibank FSB and its affiliates made small business loans totaling more than \$75 million in LMI census tracts in California. According to examiners, Citibank FSB made 117 SBA loans totaling \$28 million in California. In 1997, Citibank FSB made small business loans totaling more than \$41 million in LMI census tracts, which represented a 5 percent increase in the total dollar amount of such loans over 1996.

Examiners also noted that Citibank FSB had met community development needs in its California assessment areas in 1995 and 1996 through funding of, and construction financing for, affordable housing projects, participating in lending consortia and marketing community and economic development investments. Examiners noted, for example, that Citibank FSB extended more than \$15 million in reduced-interest-rate loans for the acquisition and/or rehabilitation of multifamily properties in LMI census tracts in California and more than \$25 million in market-rate loans secured by multifamily and commercial properties in such

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<sup>51/</sup> Citibank FSB's California assessment area is comprised of the Los Angeles-Long Beach MSA, the Orange County MSA, the Ventura MSA, the San Francisco MSA, the Oakland MSA, and the San Jose MSA. Examiners noted that Citibank FSB did not offer insured, guaranteed or subsidized government loan programs for housing in California because of the high cost of housing.

areas. Citibank FSB extended \$15.8 million in loans to community organizations in California to provide permanent financing for multifamily affordable housing and special-needs housing projects, which assisted in providing 381 units of housing for low-income families and individuals. In addition, the Federal Home Loan Bank of San Francisco ("FHLB") advanced more than \$2.5 million to Citibank FSB, under the FHLB's Affordable Housing Program, to support the development of nine multifamily housing projects that provided more than 450 units of housing to low-income families in San Francisco, Los Angeles and San Diego. Examiners also reported that Citibank FSB made community development investments of approximately \$3 million and grants of approximately \$1 million to community development organizations.

(2) *Florida.* Examiners reported that Citibank FSB originated more than 140 mortgage loans in 1995 and 1996 under its CitiAffordable Mortgage program and FNMA's Community Home Buyer Program. Examiners also noted that during this time period Citibank FSB participated in a number of state and local government programs to provide below-market interest rate mortgage loans to qualifying LMI families. Citibank FSB funded, for example, more than 100 loans totaling more than \$5 million under the Florida Housing Finance Agency Homeowner Mortgage Revenue Bond Program and the Dade County Housing Finance Authority Bond Program, which provided below-market interest rate mortgages to eligible first-time home buyers. In 1997, Citibank FSB provided additional funding of \$4.3 million under these programs.

In addition, examiners reported that Citibank FSB and its affiliates made more than 380 small business loans in 1996, totaling more than \$60 million in LMI census tracts in Florida. Examiners also noted that Citibank FSB funded 96 SBA Capital Access Program loans in 1995 and 1996, totaling more than \$10 million. Examiners also reported that Citibank FSB's funding of community development and redevelopment projects during this time period included loans of

more than \$17 million through government-assisted programs for affordable housing and small business development, approximately \$3 million in community development loans through lending consortia, \$2 million in community development investments, and grants of \$400,000 to community development organizations.

(3) *Illinois.* Examiners reported that Citibank FSB originated more than 844 mortgage loans in 1995 and 1996 under its CitiAffordable Mortgage program, FNMA's Community Home Buyer Program and FHLMC's Affordable Gold Program. Examiners also reported that Citibank FSB and its affiliates made more than 240 small business loans in 1996, totaling more than \$50 million in LMI census tracts in Illinois. In addition, OTS examiners noted that in 1995 and 1996 Citibank FSB originated SBA loans totaling more than \$9.5 million. Citibank FSB's level of community development funding during this same time period was commended by examiners. Citibank FSB's funding of community development and redevelopment projects included loans of approximately \$100 million for the acquisition or rehabilitation of multifamily properties in LMI census tracts (generally to small investors and owner-occupants), \$6 million in community development loans through lending consortia, loans of more than \$6.5 million directly to developers of affordable housing, more than \$700,000 in grants to community development organizations, and more than \$2.6 million in community development investments.

(4) *Other Areas.* In the Washington-Baltimore area, OTS examiners reported that Citibank FSB provided a number of credit products designed to meet community credit needs, including specific credit programs to meet the needs of LMI individuals. Examiners also stated that Citibank demonstrated an acceptable level of lending in LMI communities and to LMI individuals, but noted that this type of lending needed additional attention. Examiners reported that Citibank FSB originated 524 mortgage loans under its CitiAffordable Mortgage Program. Citibank and its affiliates also extended small

business loans totaling approximately \$15.9 million, including approximately \$1.3 million loans in LMI census tracts in average amounts of \$88,000. According to examiners, Citibank's small business lending performance demonstrated a commendable commitment to serving the credit needs of the community. Examiners also found that Citibank FSB met community development needs through a variety of programs, including loans of \$3 million to community development organizations for the acquisition or rehabilitation of multifamily properties in LMI communities; a \$2.4 million commitment to local intermediary lenders to make loans for affordable housing development and small business formations; and a \$1 million investment in tax credits that provided equity to affordable housing projects.

In the state of Connecticut, OTS examiners reported that Citibank FSB demonstrated a reasonable penetration of LMI communities with its credit products and a record of serving the credit needs of LMI applicants. Examiners noted that, although Citibank FSB's home mortgage lending was not strong in LMI communities, the institution's growing level of small business lending and substantial amounts of consumer lending in LMI communities demonstrated a firm commitment to meeting community credit needs. Examiners reported that Citibank FSB originated 40 home purchase and improvement loans in LMI communities in Connecticut during 1995 and 1996, totaling approximately \$6.7 million, and originated 22 home loans under the CitiAffordable Mortgage Program, FNMA's Community Home Buyer Program and FHLMC's Affordable Gold Program. Citibank FSB also extended 220 small business loans totaling approximately \$10.7 million, including 67 small business loans in LMI census tracts totaling approximately \$4.7 million. In addition, examiners found that Citibank FSB met community development needs through a variety of programs, including providing a \$1.35 million commitment to local, intermediary lenders to fund loans for affordable housing development and small business formation and investing \$2 million through

the National Equity Fund for tax credits that provided equity to affordable housing projects.

*HMDA Data.* The Board also has carefully considered the lending record of Citicorp in light of comments about the HMDA data reported by its subsidiaries.<sup>52/</sup> The Board reviewed HMDA data for 1995, 1996 and 1997, and the data generally showed that Citicorp has assisted in meeting the housing-related credit needs of minority and LMI borrowers and borrowers in LMI areas.<sup>53/</sup> The data showed moreover, that from 1996 to 1997 Citicorp increased its number of housing-related loan originations to LMI borrowers by 47 percent, to borrowers in LMI areas by 47 percent, to African Americans by 42 percent, and to Hispanics by 55 percent.<sup>54/</sup>

The data also reflect certain disparities in application, denial and origination rates among members of different racial groups and persons of different income levels. In addition, data for 1997 also indicate that some categories of Citicorp's housing-related lending were below the percentage for the aggregate. In 1997, for example, the percentage of Citicorp's home mortgage originations in LMI census tracts was below the percentage for the aggregate in several of its assessment areas, including in New York, New Jersey, California, Connecticut, Florida, and

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<sup>52/</sup> Some commenters expressed concern that in certain cities, including Baltimore, Chicago, Miami and Washington, D.C., HMDA data indicate that Citicorp does not meet the community credit needs of LMI and minority communities.

<sup>53/</sup> Citibank FSB did not incorporate New Jersey into its assessment area until 1997. Therefore, the Board only considered Citicorp's 1997 data for HMDA loans in the New Jersey assessment area.

<sup>54/</sup> These percentages include HMDA lending data for CMI, the New York assessment areas of Citibank and Citibank NYS, and all the assessment areas of Citibank FSB.

Washington, D.C. <sup>55/</sup> Citicorp also originated a lower percentage of its housing-related loans in predominantly minority census tracts and to African-American and Hispanic applicants in several of its assessment areas than did the aggregate. Citicorp has reported that in 1998 it has increased the percentage of HMDA lending in LMI and predominantly minority census tracts and to LMI and minority households in most of the assessment areas of Citibank, Citibank FSB and Citibank NYS.

The Board is concerned when the record of an institution indicates such disparities in lending, and believes that all banks are obligated to ensure that their lending practices are based on criteria that ensure not only safe and sound lending 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 these data cover only a few categories of housing-related lending. HMDA data, moreover, provide only limited information about the covered loans.<sup>56/</sup> HMDA data, therefore, have limitations that make them an inadequate basis, absent other information, for concluding that an institution has not assisted adequately in meeting its communities' credit needs or has engaged in illegal lending discrimination.

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<sup>55/</sup> This assessment area data are for the Citicorp depository institution subsidiary that operates branches in the particular state and CMI on a combined basis. The Connecticut and New Jersey data also include the HMDA originations of Citibank.

<sup>56/</sup> 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.

In light of the limitations of HMDA data, the Board has carefully reviewed other information, particularly examination reports that provide an on-site evaluation of compliance with the fair lending laws by the subsidiaries of Citicorp and Travelers. As noted above, OCC, OTS and FDIC examiners found no evidence of prohibited discrimination or other illegal credit practices at the subsidiary banks of Citicorp or Travelers. Moreover, examiners reviewed the institutions' policies and procedures for compliance with fair lending laws and regulations, conducted comparative file analyses for racial discrimination, and did not find any substantive violations of the fair lending laws.

The record also indicates that Citicorp has taken a number of affirmative steps to ensure compliance with the fair lending laws. To ensure consistent application of its underwriting criteria, for example, Citibank manages a multilevel review process for loan applicants with less than the area median income. Moreover, Citicorp monitors its fair lending performance with a five-step program that includes an independent compliance review, fair lending self-assessments conducted by management, "mystery shopper" tests done by an independent firm to assess processing and service delivery, comparative file analyses to ensure comparable treatment for minorities, and corporate audits.<sup>57/</sup>

The Board also notes that Citicorp has made projections to the NYSBD that Citibank NYS, Citibank and CMI (collectively, "Citibank lenders") would increase their HMDA-reportable lending in certain predominantly minority census tracts in New York in 1998, 1999 and 2000. Specifically, Citicorp projects that the Citibank lenders' percentage of HMDA-reported lending in the

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<sup>57/</sup> Commenters alleged that Citibank FSB, an owner of a foreclosed building, used a discriminatory bidding process to sell the building and changed the selection criteria so that it excluded a qualified minority bidder. Citicorp denied the allegation and stated that it fairly and sufficiently considered the minority bidder in accordance with relevant requirements.

predominantly minority census tracts in the cities of Buffalo and Rochester, Erie and Niagara Counties combined and Monroe County in each of these years would equal or exceed the percentage they achieved in these respective areas for the first half of 1998. Citicorp also projects that the percentage of the Citibank lenders' HMDA-reported lending in predominantly minority census tracts in their downstate New York assessment areas during these years would equal or exceed the adjusted aggregate's percentage of such lending in those markets.<sup>58/</sup> The Citibank lenders will make confidential reports to the NYSBD on their progress in this respect.

The Board encourages the depository institutions involved in the proposal to continue to improve their record of lending in LMI and minority communities and to LMI and minority borrowers, and expects Citicorp to address any weaknesses in its CRA record that were noted in the most recent CRA performance examinations. In addition, the Board encourages Citicorp to meet the lending projections made to the NYSBD.

*Branch Network and Services.* Travelers has represented that no branch closures are expected to result from this transaction. A number of commenters contended that Citicorp has, in the past, disproportionately closed branches and down-graded branch services in LMI communities, particularly in its New York City assessment area.<sup>59/</sup> Citicorp began restructuring its NYC branch network in 1995. This restructuring was reviewed by the OCC in Citibank's 1996 CRA examination. OCC examiners found that there had been a 28-percent decline in the number of full-service branches, but no closures in LMI census tracts.

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<sup>58/</sup> The adjusted aggregate's percentage excludes independent mortgage bankers. The areas affected include Nassau and Suffolk Counties combined, Westchester and Rockland Counties combined, and the counties of Queens, Kings, Bronx, New York, and Richmond.

<sup>59/</sup> In addition, a representative of Yonkers asserted that Citibank has no branches in Yonkers and that Citibank's one ATM facility fails to meet the community's needs.



Examiners noted that four branches were converted to stand-alone ATM Citicard Banking Centers ("CBCs") in LMI census tracts. The decline in branches was balanced, according to OCC examiners, by a 124-percent increase in CBCs, expanded branch hours and significant price reductions for automated products and services. OCC examiners concluded that the branch closings and consolidations that occurred had "not negatively impacted the New York community." Moreover, OCC and NYSBD examiners found that Citibank services were readily accessible to all segments of its communities. <sup>60/</sup>

OCC examiners also found that Citibank's management had followed the bank's internal branch policy, which provided guidelines for closing, converting and relocating branches. This policy requires an extensive analysis of the impact on the community. According to the examiners, management contacted legislative and community leaders to inform them and, in the process, ascertained specific community needs which were immediately addressed.

In 1998, the NYSBD analyzed the current branch network of, and record of opening and closing branches for, Citibank and Citibank NYS. The NYSBD concluded that LMI areas were not disproportionately affected by branch closings relative to middle- and upper-income areas. The NYSBD added that a comparison of the branch distribution for Citibank and Citibank NYS revealed that the total percentage of branches that are in or adjacent to LMI communities compares favorably with other banks throughout New York State. In the 1998

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<sup>60/</sup> Since the 1996 Citibank examination, Citibank closed two branches, one in a financial district and one at the John F. Kennedy Airport where another Citibank branch remains. Citibank also converted three branches and closed three CBC sites. Citicorp indicated that none of these CBC site conversions or closures were in LMI census tracts. During the same time period, Citibank also relocated two branches and one CBC. A branch and a CBC in Manhattan were moved across the street from their original sites, and one branch in the Bronx was moved several blocks to a modernized facility in a low-income census tract.

examination, NYSBD examiners found that Citibank NYS's record of opening and closing branches had not adversely affected the accessibility of its banking services, particularly for LMI individuals or in LMI geographies.

The Board 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 regulatory agency before closing any branch.<sup>61/</sup> The requirement applies any time a branch is closed, whether in connection with an acquisition or at any time after completion of an acquisition. This requirement for public notice cannot be limited by any commitment to the Board or to any community organization. The law does not authorize federal regulators to prevent the closing of any branch.

Several commenters maintained that Citicorp had one of the highest fee structures, particularly in New York, and that these fees discouraged LMI individuals from using Citicorp banking services.<sup>62/</sup> For LMI customers in New York, Citibank offers Basic Checking, which provides customers up to eight debit transactions for a \$3.00 monthly service charge, eight free checks per month

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<sup>61/</sup> Section 42 of the Federal Deposit Insurance Act (12 U.S.C. § 1831r-1), as implemented by the Joint Policy Statement Regarding Branch Closings (58 Federal Register 49,083 (1993)), requires that a bank provide the public with at least 30 days notice and the primary federal supervisor with at least 90 days notice before the date of the proposed branch closing. The bank also is required to provide reasons and other supporting data for the closure, consistent with the institution's written branch closing policy.

<sup>62/</sup> Some commenters asserted that Citibank's New York State electronic benefits transfer ("EBT") program for government benefits does not meet the convenience and needs of low-income communities because it does not provide direct deposit services or actual bank accounts for recipients to deposit funds, to write checks or to save money. The U.S. Treasury Department recently announced that banks that offer EBT will be required to offer four free monthly withdrawals and that recipients must be given the option of withdrawing their benefits at a teller window or ATM.

and free Citibank bill payment services. Citibank also eliminated the fees for many services including PC Banking and bill payment. For LMI consumers in California, Citibank FSB offers Basic Checking, which features a \$6.50 monthly service charge for six checks and two non-Citibank ATM transactions per month, unlimited Citibank ATM transactions, and free personal computer and phone banking, automatic payment to a third party and bill payment services.<sup>63/</sup>

E. Travelers's Convenience and Needs Record

*CRA Performance Record.* The 1997 FDIC examinations found that Travelers's two subsidiary depository institutions satisfactorily addressed the needs of their communities through numerous qualified investments that focused on community development organizations and through investments of funds in a local federal credit union. FDIC examiners noted that these institutions were unable to engage in traditional community development lending because of charter restrictions under Delaware state law, but that they extended credit cards and/or second-lien mortgages for debt consolidation purposes to LMI families and LMI individuals in their assessment area. Examiners counted these loans as community development loans and found that the institutions' overall CRA efforts were adequate in light of the legal limitations on the institutions and the community development opportunities in their assessment area.

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<sup>63/</sup> A number of commenters expressed concerns about Citicorp's fees for banking services. In particular, some commenters alleged that by increasing its minimum balance requirement for free checking to \$6,000 (\$10,000 in California) in various accounts and emphasizing computer banking, Citicorp has demonstrated a lack of commitment to LMI consumers. As discussed above, Citicorp offers a full range of banking products and services, including low-fee checking accounts with a certain number of free ATM transactions. Moreover, although the Board has recognized that banks help serve the banking needs of their communities by making basic services available at nominal or no charge, neither the CRA nor the primary federal supervisors of the banks involved in this case require an institution to limit the fees charged for its services or to provide any specific types of banking products.

On November 24, 1997, the OTS approved the conversion of The Travelers Bank to a federal savings association.<sup>64/</sup> Since the approval order, the OTS has not conducted a CRA examination of Travelers FSB. The OTS imposed certain conditions on its approval. Specifically, Travelers FSB was required to develop a compliance plan covering high loan-to-value ratio loans and high-cost mortgages that would monitor sales practices of the representatives of its affiliate, Primerica Financial Services Home Mortgages, Inc., to ensure that applicants for these loans and mortgages are apprised of all financing options reasonably available to them through Travelers FSB and the costs and risks associated with each option; to provide compliance training to agents, underwriters and other personnel; to ensure that due consideration is given to a mortgage customer's ability to repay; and to ensure that senior Travelers FSB management exercises appropriate caution in approving these loans and addressing the thrift's ability to maintain customer and public confidence in its lending operations. As part of this application, Travelers has committed to comply with these and all other conditions in the OTS order.

Travelers made an initial pledge to the OTS to make home equity loans totaling at least \$430 million to LMI borrowers from 1998 through 2000. The OTS also required that Travelers FSB semiannually analyze and report to the OTS its progress in fulfilling the lending commitment to LMI borrowers and stated the OTS's expectation that the lending commitment would be increased as the business plans of Travelers FSB develop. The Board expects Travelers FSB to meet its commitments in this area.

*Travelers's Insurance Activities.* Several commenters criticized various aspects of the insurance underwriting and sales activities of Travelers.<sup>65/</sup> In

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<sup>64/</sup> See OTS Order No. 97-120 (November 24, 1997).

<sup>65/</sup> Commenters specifically alleged that Travelers does not have agent offices in urban areas, that Travelers has been accused of "redlining" automobile insurance in  
(continued...)

reviewing these comments, the Board has considered, as explained above, that Travelers must conform these activities to the requirements of section 4 of the BHC Act within a specified period of time. The Board also has considered that these sales practices are governed by various state insurance laws and reviewed by state insurance authorities. In addition, the Board has considered the managerial record and resources of Travelers and its record of compliance with applicable state insurance laws.

The Board notes that Travelers has made a number of efforts to improve the availability of property insurance in urban areas and to increase the number of minority insurance agents selling policies for the company, including establishing the Urban Availability of Insurance Program in 1994. This program also promotes education for LMI home buyers about topics such as insurance coverage and strategies available to reduce premiums and the relationship between home maintenance and insurance affordability. In addition, since 1994, Travelers Property Casualty Corporation ("Travelers P&C") has written 5,300 policies for homeowners insurance to owners of homes that were built or renovated by Habitat for Humanity with the help of the homeowners. <sup>66/</sup> *Travelers's Nonbank*

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<sup>65/</sup>(...continued)

a report, and that Travelers operates its insurance business with a two-tiered marketing strategy that involves marketing whole life insurance to affluent communities and term life insurance to LMI consumers.

<sup>66/</sup> Some commenters asserted that Travelers P&C discriminates in its provision of homeowners insurance. The Fair Housing Council of Greater Washington and National Fair Housing Alliance filed complaints with HUD in 1997, alleging that Travelers and other insurance companies systematically violated the Fair Housing Act in Milwaukee, Richmond, Toledo, and Washington, D.C. These complaints include allegations that Travelers's underwriting policies limit replacement cost coverage in its home insurance policies to homes worth at least \$250,000 and not older than 45 years, which adversely affects LMI and minority communities. Travelers P&C has denied the allegations of discrimination in these complaints.

(continued...)

*Subsidiaries.* Certain commenters alleged that Travelers's subsidiaries, Commercial Credit Company ("Commercial Credit") and Primerica Financial Services ("PFS"), focus their marketing on minority and LMI communities and provide customers with high-priced, inappropriate products.<sup>67/</sup> These commenters alleged that minority and LMI customers may be illegally "steered" toward these affiliates on a prohibited basis, including based on the race of customer.<sup>68/</sup>

PFS representatives sell Travelers's lending, insurance and investment products to the public. According to Travelers, the PFS representatives obtain information from a customer through a financial needs analysis, inform the customer of available products and assist the customer in completing the relevant application. Applications on secured home improvement loans and unsecured personal loans are then sent to Travelers FSB and Commercial Credit, respectively, which conduct the entire credit evaluation of the application and decide whether to issue or underwrite

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<sup>66/</sup>(...continued)

According to Travelers, Travelers P&C does not maintain underwriting criteria such as a maximum home age and minimum home value that would have an illegal discriminatory affect on minority homeowners. Travelers P&C currently is participating in HUD's conciliation process for both complaints. There has been no adjudication of wrongdoing by Travelers P&C in any of these matters, and each matter currently is pending before a forum that can provide the plaintiffs adequate redress if their allegations can be sustained.

<sup>67/</sup> A complaint was filed with HUD in 1997, alleging that Commercial Credit violated fair lending and consumer disclosure laws because it made a loan to an African-American couple with a high interest rate, high closing costs, high insurance premiums, and improper disclosure. This dispute is currently before HUD, the federal agency with statutory authority to adjudicate the matter. There has been no adjudication of wrongdoing by Commercial Credit in this matter, which currently is pending before a forum that can provide the complainants with adequate redress if their allegations can be sustained.

<sup>68/</sup> One commenter also alleged, without providing any supporting facts, that Travelers's subsidiaries violate the Equal Credit Opportunity Act by not sending adverse action notices to potential borrowers.

the loan product.<sup>69/</sup> The PFS representatives are not permitted to indicate interest rates or assess the likelihood of approval for the client--only Travelers FSB and Commercial Credit can determine loan qualification and approval.

The record of the application, including relevant reports of examination, indicates that Travelers's depository institution subsidiaries are not in violation of substantive provisions of the antidiscrimination laws. Moreover, Travelers has implemented a training program for employees and representatives of PFS, Commercial Credit and Travelers FSB on fair lending and consumer protection laws that regulate the sale of financial products.<sup>70/</sup> Travelers has made a commitment to the OTS and the Board to provide compliance training to the PFS representatives, underwriters and other appropriate personnel in the loan approval process on regulatory matters and consumer protection issues associated with high loan-to-value ratio loans and high-cost mortgages.

The PFS representatives are required to provide numerous disclosures to customers so that customers can choose among lending, insurance and investment

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<sup>69/</sup> Some commenters alleged that Travelers engaged in HMDA record-keeping violations. They alleged that the NYSBD found in 1997 that Travelers's subsidiary, Commercial Credit Company, engaged in HMDA violations by failing to record the race of HMDA applicants. Since that time, the NYSBD has examined Commercial Credit and found no violations in its HMDA data collection procedures. According to Travelers, the policy of its subsidiaries, Commercial Credit, PFS and Travelers FSB, is to gather HMDA data for all in-person loan applications taken by PFS representatives. This procedure is in accordance with the HMDA regulations, which require the race of an applicant to be reported if part of the application process is conducted in person. See 12 C.F.R. 203, Supplement 1; 203.4(a)(7).

<sup>70/</sup> Travelers began a general training program in 1995, when it introduced PFS University to inform Travelers FSB and Commercial Credit employees and PFS representatives that their actions are subject to numerous fair lending and consumer protection laws and regulations. PFS University also provides the PFS representatives with general product knowledge about the products that they sell and conducts insurance licensing renewal and continuing education courses.

products. Travelers represents that the disclosure documents provided by the PFS representatives comply with federal and state requirements and provide the customers with the estimated costs at loan settlement, a description of the business relationship between the lender and the PFS representative, and an explanation of the lender's account servicing policies. Specific disclosures also are provided during the marketing of certain securities products, such as mutual funds and variable annuities, to notify customers of the costs and tax consequences of redeeming, buying and transferring their financial investments to other products.<sup>71/</sup>

F. Citigroup Community Pledge

In connection with the proposal, Travelers and Citicorp have announced a ten-year, \$115 billion community pledge.<sup>72/</sup> The Citigroup community pledge includes the commitment by Travelers FSB to extend \$430 million to LMI borrowers during the next three years for home equity loans.<sup>73/</sup>

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<sup>71/</sup> As noted above, the OTS conditioned its approval of a thrift charter for Travelers on the development by Travelers FSB of a plan to monitor sales practices of the PFS representatives to ensure that all customers, particularly those who have applied for high loan-to-value ratio loans and for higher-cost mortgages, are informed of the financing options reasonably available to them through Travelers FSB.

<sup>72/</sup> The Citigroup community pledge includes the following major elements: (1) \$30 billion in small business loans; (2) \$20 billion in affordable mortgages; (3) \$59 billion in consumer credit, which includes student loans, credit card loans and other consumer loans; and (4) \$6 billion in community development loans and investments. In addition, the pledge includes an insurance-related initiative in which Travelers will add two cities to its Urban Availability Insurance Program, which is designed to enhance agent diversity, insurance education and insurance affordability for LMI homeowners and small businesses. Travelers also plans to offer price discounts on insurance premiums to Citibank's LMI mortgage customers, subject to approval by relevant state insurance departments.

<sup>73/</sup> As indicated above, commenters criticized the Citigroup community pledge and various features of the pledge.



The CRA requires the Board, in considering Travelers's application to acquire Citicorp and Citicorp's subsidiaries, to review carefully the actual record of past performance of the insured depository institutions controlled by Citicorp and Travelers in helping to meet the credit needs of all their communities.<sup>74/</sup> 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.<sup>75/</sup>

The Board has considered the Citigroup community pledge in this light as an indication of the intent of Citicorp and Travelers to maintain and strengthen their current commitment to serving the banking convenience and needs of their communities.<sup>76/</sup> The Board notes, moreover, that the future activities of Citigroup, including any lending and community development activities in which Citigroup might engage under the announced community pledge, will be reviewed by the appropriate federal supervisors of those institutions in future performance examinations as the pledge is implemented, and that Citigroup's CRA performance

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<sup>74/</sup> As noted above, a number of commenters contended that the Board should not consider the plan in its review of the proposal.

<sup>75/</sup> See Totalbank Corporation of Florida, 81 Federal Reserve Bulletin 876 (1995); First Interstate Bank Systems of Montana, Inc., 77 Federal Reserve Bulletin 1007 (1991).

<sup>76/</sup> A number of commenters criticized Travelers and Citicorp for not negotiating agreements with community-based organizations and stated that Citigroup 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).

record will be considered by the Board in future applications by Citigroup to acquire a depository institution.

G. Conclusion on Convenience and Needs Considerations

The Board recognizes that this proposal represents a significant expansion of the size of the resulting institution and of the types of activities that the resulting institution would conduct. Accordingly, an important component of the Board's review of the proposal is the consideration of the effects of the proposal on the convenience and needs of all communities served by Travelers and Citicorp.<sup>77/</sup>

Commenters have expressed concern about Citicorp's CRA performance and Citigroup's ability to meet the convenience and needs of LMI and minority customers. Commenters also expressed a general concern that Citigroup might not meet the credit needs of LMI and minority communities because LMI and minority customers may be "steered" to Travelers affiliates that would offer products with less favorable terms.

The Board has weighed these concerns and the other concerns raised by commenters in light of all the facts of record, including the overall CRA records of Citicorp and Travelers, reports of examination of CRA performance, reports from other banking regulators, information provided by Citicorp and Travelers, and information from other commenters about the records of Citicorp and Travelers in meeting the credit needs of their communities. As discussed in this order, all the facts of record demonstrate that Citicorp's and Travelers's depository institution subsidiaries have a record of complying with the antidiscrimination and consumer

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<sup>77/</sup> A commenter alleged that Citicorp has a record of treating employees poorly and other commenters expressed concern that the merger might result in job losses or adversely affect minority employees. The effect of a proposed transaction on employment in a community is not among the factors included in the BHC Act. The convenience and needs factor has been consistently interpreted by the federal banking agencies and the courts to relate to the effect of a proposal on the availability and quality of banking services in the community.

protection laws, and with applicable laws that prohibit the selective targeting of groups and the provision of misleading information during the sale of lending, insurance and securities products to customers. The Board expects that Citigroup will comply with the regulations and laws that affect these activities, as would be required of any other financial services organization. As noted in this order, the Board also encourages the depository institutions involved in this proposal to continue to improve their record of lending to LMI and minority communities and to LMI and minority individuals.

Based on a review of the entire record, the Board concludes that convenience and needs considerations, including the CRA records of performance of both organizations' subsidiary depository institutions, are consistent with approval of the proposal under section 3 of the BHC Act.

#### Nonbanking Activities

Travelers also has requested Board approval under section 4(c)(8) of the BHC Act to engage in, and control subsidiaries that are engaged in, activities the Board has found to be closely related to banking, including operating savings associations; engaging in consumer lending, mortgage banking and other lending activities; engaging in credit card and data processing activities; providing financial and investment advisory services; underwriting and dealing, to a limited extent, in equity and debt securities; providing administrative service to open-end investment companies ("mutual funds"); and acting as a commodity pool operator.

Travelers has committed that it will conduct these activities in accordance with the limitations set forth in Regulation Y and the Board's orders and interpretations relating to each of the activities. As a condition of the Board's action in this case, Citigroup must comply with the limitations in Regulation Y and the Board's orders and interpretations relating to each of the proposed nonbanking activities.

#### A. Underwriting and Dealing in Bank-Ineligible Securities

Travelers has applied to acquire Citicorp Securities Inc. ("CSI") and to retain Salomon Smith Barney Inc. ("SSB") and The Robinson-Humphrey Company, LLC ("Robinson"). These companies are engaged in a variety of securities activities, such as underwriting and dealing in U.S. government securities, underwriting and dealing in corporate debt and equity securities, acting as a securities broker, and providing financial and investment advice to institutional and retail customers. Each securities company currently is, and after consummation of the proposal will continue to be, registered with the Securities and Exchange Commission ("SEC") as a broker-dealer under the Securities Exchange Act of 1934 (15 U.S.C. § 78a *et seq.*) ("1934 Act") and as a member of the National Association of Securities Dealers, Inc. ("NASD"). Accordingly, each securities company is and will be subject to the recordkeeping and reporting obligations, fiduciary standards and other requirements of the 1934 Act, the SEC and the NASD.

As noted above, the Board has determined by regulation that underwriting and dealing in U.S. government securities, acting as a securities broker, and providing financial and investment advice are activities that are closely related to banking and permissible for bank holding companies to conduct. In addition, 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, the activities of underwriting and dealing in bank-ineligible securities are so closely related to banking as to be proper incidents thereto within the meaning of section 4(c)(8) of the BHC Act.<sup>78/</sup> The Board also has determined that underwriting and dealing in

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<sup>78/</sup> See J.P. Morgan & Co. Incorporated, et al., 75 Federal Reserve Bulletin 192 (1989), *aff'd sub nom. Securities Indus. 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 Indus. Ass'n v. Board of Governors of the Federal Reserve System*, 839 F.2d 47 (2d Cir.), *cert. denied*, 486

bank-ineligible securities in the United States is consistent with section 20 of the Glass-Steagall Act (12 U.S.C. § 377), provided that the company engaged in the activity derives no more than 25 percent of its gross revenues from underwriting and dealing in bank-ineligible securities.<sup>79/</sup>

Travelers has committed that each of its proposed securities subsidiaries will conduct its underwriting and dealing activities using the methods and procedures and subject to the Board's operating standards established for section 20 subsidiaries ("Operating Standards").<sup>80/</sup> Travelers also has committed that each company will conduct its domestic bank-ineligible securities underwriting and dealing activities subject to the Board's revenue restriction.<sup>81/</sup> As a condition of

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<sup>78/</sup>(...continued)

U.S. 1059 (1988); *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").

<sup>79/</sup> Two of Travelers's insurance underwriting subsidiaries issue variable rate annuities and variable life insurance, which are securities for purposes of the federal securities laws. The revenue derived by each of these companies from this activity represents less than 25 percent of each company's total revenues. As noted above, Citigroup must divest or otherwise conform the activities of these companies to the requirements of section 4 of the BHC Act within the period provided by that section. During the period these companies are held by Citigroup, the securities activities of these companies also must meet the requirements of the Glass-Steagall Act, including remaining in compliance with the Board's revenue test.

<sup>80/</sup> 12 C.F.R. 225.200.

<sup>81/</sup> 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);

(continued...)

the Board's action in this case, Travelers and each of its subsidiaries engaged in bank-ineligible securities underwriting and dealing activities is required to conduct its bank-ineligible securities activities subject to the revenue restrictions and the Operating Standards.<sup>82/</sup> In addition, as a condition of the Board's action in this case, Travelers and its subsidiaries must terminate or conform their mutual fund

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<sup>81/</sup>(...continued)

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 Company Engaged in underwriting and Dealing in Securities, 61 Federal Register 68,750 (1996) (collectively, "Modification Orders"). Travelers has requested that SSB and Robinson each be permitted to calculate compliance with the revenue limitation on an annualized basis during the first year after consummation of the proposed acquisition. Under this method, each company would ensure that its revenues from bank-ineligible securities during the first year of affiliation with Citigroup would not exceed 25 percent of the company's total annual revenues. After the first year, each company would compute compliance with the revenue limit on the standard rolling quarterly average. This method of calculating compliance is consistent with previous Board decisions. See Dauphin Deposit Corporation, 77 Federal Reserve Bulletin 672 (1991). The annualized test recognizes that the measure of the amount of business conducted by a company is most appropriately calculated over a period of time that is sufficient in length to measure flows of business and not to permit manipulation. An annualized test that begins on the date of the original affiliation also recognizes that the Glass-Steagall Act limitations do not apply to a company prior to the time it becomes affiliated with a bank and, therefore, that business conducted by a securities company during the period prior to its affiliation with a bank should not be included in determining whether the securities company meets the requirements of the Glass-Steagall Act after its affiliation with the bank.

<sup>82/</sup> 12 C.F.R. 225.200. The securities companies may provide services that are necessary incidents to the proposed underwriting and dealing activities. Unless a domestic securities company receives specific approval under section 4(c)(8) of the BHC Act to conduct the activities independently, any revenues from the incidental activities must be treated as ineligible revenues subject to the Board's revenue limitation.

distribution activities to the provisions of the Glass-Steagall Act and the Board's orders thereunder on consummation of the proposal.

*"Engaged principally" test under section 20 of the Glass-Steagall Act.*

Section 20 of the Glass-Steagall Act provides that "no member bank shall be affiliated . . . with any corporation, association, business trust, or other similar organization engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes, or other securities." <sup>83/</sup> It is well established that section 20 of the Glass-Steagall Act does not prohibit the affiliation of a member bank with a securities firm that engages in *some* bank-ineligible securities activities so long as the company does not engage *principally* in bank-ineligible securities activities. <sup>84/</sup> In 1996, the Board determined that a securities firm is not engaged principally in bank-ineligible securities activities if the firm derives less than 25 percent of its total revenues from bank-ineligible securities activities. <sup>85/</sup>

All but one of Travelers's domestic subsidiaries engaged in securities activities that are proposed to be retained by Citigroup currently derive less than 25 percent of their total revenue from bank-ineligible securities activities. As explained above, Travelers has committed that all the domestic companies engaged in securities activities that will be controlled by Citigroup will conform to the Board's

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<sup>83/</sup> 12 U.S.C. § 377.

<sup>84/</sup> See Citicorp, J.P. Morgan & Co., and Bankers Trust New York Corp., 73 Federal Reserve Bulletin 473 (1987), *aff'd sub nom.*, Securities Indus. Ass'n v. Board of Governors of the Federal Reserve System, 839 F.2d 47 (2d Cir.), *cert. denied*, 486 U.S. 1059 (1988) (hereinafter "SIA v. Board").

<sup>85/</sup> 61 Federal Register 68,750 (1996).

revenue test on consummation of the transaction and will remain in compliance with the revenue test, and the Board's action is expressly conditioned on these commitments.

Several commenters asserted that approval of the notice and application in this case would violate the Glass-Steagall Act because approval would allow the affiliation of a member bank with one of the largest securities firms in the United States. These commenters argued that the Board's revenue test is not an adequate or appropriate measure of compliance with section 20 of the Glass-Steagall Act. The commenters contended that section 20 prohibits affiliations based solely on the absolute size of the securities firm or on the relative standing of the securities firm among all securities firms, and that the largest securities firms in the United States must be considered to be engaged principally in bank-ineligible securities underwriting and dealing activities.<sup>86/</sup> They argued that the Glass-Steagall Act was enacted precisely to prevent the affiliation of companies such as SSB and Citibank, which are among the largest securities firms and member banks in the United States. In addition, some commenters argued that section 20 includes a qualitative element that requires a careful evaluation of the quality of assets and other measures of risk to commercial banks from a proposed affiliation with a securities firm.

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<sup>86/</sup> Several commenters also alleged that Travelers has proposed to calculate compliance by its securities subsidiaries with the 25-percent revenue test on a consolidated basis, rather than on a separate-subsidiary basis, and contended that this approach would violate the Glass-Steagall Act and the Board's orders. While Travelers originally requested authority to calculate compliance with the revenue test by consolidating revenues of SSB and Robinson, Travelers has amended its proposal to provide that it would calculate compliance with the revenue test for each of its securities companies separately in accordance with Board precedent. The Board's action in this case is conditioned on the requirement that each domestic affiliate engaged in bank-ineligible securities activities comply with the requirements of the Glass-Steagall Act and the Board's revenue test on an individual basis in accordance with the Board's Section 20 Orders.



As noted above, in 1996, the Board reviewed the revenue test that it applies for purposes of determining compliance with section 20. As part of its consideration, the Board sought public comment on the level of activity that would cause a company to be "engaged principally" in bank-ineligible securities activities for purposes of section 20, and the Board carefully considered all the comments received. Several commenters on this application have reiterated the same issues as they originally presented in 1996.

For the reasons more fully explained in its 1996 order, which the Board expressly incorporates herein, the Board determined that a company would not be engaged principally in bank-ineligible securities activities for purposes of section 20 of the Glass-Steagall Act if the company derived less than 25 percent of its total revenues from such activities.<sup>87/</sup> As explained in its 1996 order, the Board reasoned, based on its experience in supervising the manner in which securities activities are conducted and the relative importance of various types of securities activities to the overall business of a securities firm, that a company would not be "engaged principally" in bank-ineligible securities activities if more than 75 percent of the total revenues of the company were derived from other activities. The Board also considered that differences in the fee structure for various types of bank-eligible and bank-ineligible securities activities, and changes in the marketplace that affected those fee structures since the Board initially established the revenue limit, indicate that a company would not be "engaged principally" in bank-ineligible securities activities if its revenues from those activities did not exceed 25 percent of the firm's total revenues.

With regard to the claim raised by commenters that the revenue limit established by the Board would negate the basic purposes of the Glass-Steagall Act, the Board also carefully considered changes in the marketplace and changes in the

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<sup>87/</sup> 61 Federal Register 68,750 (1996).

types of activities conducted by securities firms today as compared with the time when that Act was enacted. The Board noted that the Glass-Steagall Act was intended to prevent banks from affiliating with securities firms "of the 1920s and 1930s" and that securities firms in that period commonly derived more than 25 percent of their revenue from underwriting and dealing in bank-ineligible securities. In contrast, securities firms today often engage in a much different and broader range of activities than securities firms operating at the time the Glass-Steagall Act was enacted. Today, for example, securities firms engage in a significant amount of securities activities that are permissible for banks to conduct directly, such as underwriting and dealing in U.S. government securities, while historical data suggest that securities firms of the 1920s and 1930s did not.

The Board also considered the argument made by commenters that the absolute size or market prominence of a securities firm causes a firm to be "engaged principally" in bank-ineligible securities activities for purposes of section 20. The Board noted that the court has specifically considered and rejected the argument that the market share controlled by a securities firm reflects whether a firm is "engaged principally" in securities activities.<sup>88/</sup> Moreover, the term "engaged principally" itself recognizes that the absolute size of a securities company is not relevant; instead, the adverb "principally" can only be defined by reference to the relative amount of ineligible securities activities conducted by a firm as a proportion of the company's overall business.<sup>89/</sup> Consequently, the Board rejects the argument made

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<sup>88/</sup> See SIA v. Board, at 67-8.

<sup>89/</sup> Commenters argue that the court in SIA v. Board indicated, by reference to a specific large securities firm, that size or prominence in the industry alone is sufficient to find a company to be "engaged principally" in bank-ineligible securities activities. The Board believes that commenters have misconstrued the court's holding in that case. In SIA v. Board, the court considered a specific example to illustrate its conclusion that the term "principally" as used in section 20

by commenters that the absolute size of a securities firm or its market position, without reference to the relative amount of bank-ineligible securities activities conducted by the firm, is a proper measure of compliance with section 20 of the Glass-Steagall Act.<sup>90/</sup>

In this case, SSB is among the largest securities firms in asset size in the United States. It engages in a wide variety of activities with respect to both bank-eligible and bank-ineligible securities and is one of the largest securities brokerage companies in the United States. However, for the reasons discussed above, the Board believes that the relevant measure for purposes of compliance with section 20 of the Glass-Steagall Act is the amount of the ineligible securities underwriting and dealing activities that SSB would conduct after consummation of this proposal.<sup>91/</sup> In this regard, SSB currently derives less than 25 percent of its

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<sup>89/</sup>(...continued)

does not mean "chief" or "first" activity. At the same time, as noted above, the court specifically considered and rejected a market share test as a measure of compliance with section 20. Instead, the court explained that section 20 was intended to address "the perceived risk to bank solvency from their *over-involvement* in securities activity." SIA v. Board, at 68 (emphasis added). Thus, the court did not hold, as commenters contend, that the size alone of the securities company or the relative position of the securities firm among competing securities firms indicates a violation of section 20. The court, in fact, rejected these arguments in favor of a test based on the relative amount of ineligible securities business conducted by the securities firms.

<sup>90/</sup> The Board also notes that the court in SIA v. Board considered and rejected the argument that a different measure of "engaged principally" should be used for different companies. The court found that "section 20 must be read to set down at some point a hard and fast limit on the amount of bank-ineligible securities activity . . . and it cannot be drawn differently in each case." SIA v. Board, at 68-9.

<sup>91/</sup> The Board also considered the question raised by commenters about whether the risks associated with the assets or activities of a securities firm must be considered in determining whether a company is "engaged principally" in bank-

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total revenues from bank-ineligible securities activities, and, after its affiliation with member banks controlled by Citicorp, neither SSB nor any other affiliate engaged in securities activities may derive more than 25 percent of its total revenues from bank-ineligible securities activities.

*Dealing activities under the BHC Act.* As part of their current securities dealing activities, SSB and Robinson (collectively, "SSB") maintain five principal lines of business in the United States: (1) market-making activities in which SSB holds itself out as willing to buy and sell equity securities of approximately 1200 companies; (2) block trading activities involving voting securities of publicly traded companies; (3) market-making activities involving preferred securities that could be considered voting shares under the BHC Act; (4) market-making activities in convertible bonds and convertible preferred securities where the position is hedged by purchasing and selling the underlying security; and (5) buying and selling listed and over-the-counter equity options and

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<sup>21</sup>(...continued)

ineligible securities activities. As explained more fully in its 1996 decision, section 20 does not allow the Board to find that a securities firm may derive 100 percent of its revenues from bank-ineligible securities activities if the Board finds that the risk associated with those activities are minimal, nor does section 20 allow the Board to prohibit an affiliation where the securities activities of a particular company are highly risky, but would not amount to a substantial activity for the company.

However, the level of risk from an affiliation is a factor that may be considered under the BHC Act, and, as explained below, the Board has considered the risks in this case in analyzing the financial and managerial factors under the standards in the BHC Act. In addition, the Board has conducted a preliminary due diligence of the policies, procedures and controls of SSB and Robinson to ensure that they would have the necessary policies and procedures to comply with the requirements of this

order and the Board's Section 20 Orders, including computer, audit and accounting systems, internal risk management controls, and the necessary operational and managerial infrastructure. This order is conditioned on completion of a successful examination of the securities activities, policies and procedures of SSB and Robinson to be conducted after consummation.

entering into equity swap transactions with its customers. The activities aid the liquidity of the markets and are conducted by SSB regardless of the prospects for appreciation in the stock, and not with a view toward profiting from arbitrage in the price of the stock. SSB does not acquire securities for investment purposes as part of any of these dealing lines of business. In a small number of cases, SSB acquires more than 5 percent of a class of voting securities in the ordinary course of conducting these businesses. In each case, SSB divests these shares within a brief period after their acquisition. Travelers has requested authority to continue to acquire more than 5 percent of a class of voting securities pursuant to section 4(a)(2) of the BHC Act as part of the ordinary course of conducting these dealing activities.

As discussed above, section 4(a)(2) permits a new bank holding company to continue to engage in those activities in which it was engaged at the time it became a bank holding company. SSB has historically engaged in acquiring more than 5 percent of a class of voting securities as part of its dealing activities, and the market currently expects SSB to acquire securities without limit. Under section 4(a)(2), SSB must conform its conduct of these activities to the requirements of section 4 of the BHC Act before conclusion of the conformance period. Moreover, during the conformance period, the portion of SSB's dealing activities that involve the acquisition of more than 5 percent of the shares of a company may not be expanded in size or scope, and SSB may not acquire securities for investment purposes pursuant to section 4(a)(2). The Board also expects that, in its dealing activities, SSB would maintain its current practice of being neutral to market movements.

In order to ensure that SSB does not engage in investment or arbitrage activities during the section 4(a)(2) conformance period, voting shares acquired in connection with: (i) the market-making, block trading or preferred securities businesses must be reduced to less than 5 percent of the voting securities of any

individual issuer within 30 days of exceeding the 5 percent limit; (ii) the convertible debt trading business must be reduced to less than 5 percent within five days after conversion of a convertible security; and (iii) the equity derivatives business must be reduced to less than 5 percent within 30 days after the expiration of a cash-settled derivative or within five days after the expiration of a physically-settled derivative. In addition, SSB may not, as part of its dealing activities, acquire more than 25 percent of any class of voting securities of, or otherwise control, any company at any time. Moreover, the Board has relied on Travelers's commitments that SSB would clearly identify positions in securities held pursuant to section 4(a)(2) and that the securities held pursuant to section 4(a)(2) would not be voted by SSB or any representative or agent of SSB. Further, SSB may not acquire more than 5 percent of a class of voting securities of a bank or bank holding company without prior Board approval.

B. Mutual Fund Activities

The Board previously has determined that providing administrative services to mutual funds is closely related to banking within the meaning of section 4(c)(8) of the BHC Act.<sup>92/</sup> Travelers proposes to provide investment advisory, brokerage, administrative, and other services that previously have been approved by the Board, and Travelers has committed that the proposed activities will be conducted in compliance with Regulation Y and subject to the prudential and other limitations established by the Board.<sup>93/</sup>

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<sup>92/</sup> See, e.g., Bankers Trust New York Corporation, 83 Federal Reserve Bulletin 780 (1997) ("BTNY"); Commerzbank AG, 83 Federal Reserve Bulletin 679 (1997).

<sup>93/</sup> See, e.g., BTNY. The administrative services that Travelers would provide to mutual funds through its subsidiaries include those listed in BTNY and Societe Generale, 84 Federal Reserve Bulletin 680 (1998). Such activities include computing the fund's financial data, maintaining and preserving the records of the

Travelers has committed that, before consummation of this transaction, subsidiaries of Travelers engaged in the distribution of shares of mutual funds will terminate these securities distribution activities and all such activities will be the responsibility of distributors unaffiliated with Citigroup. The independent distributor also would be responsible for supervising sales as the principal underwriter for purposes of the federal securities laws.<sup>94/</sup>

Travelers also proposes to have certain director and officer interlocks with the funds. In particular, Travelers proposes that up to 25 percent of the directors of a mutual fund would be employees, officers, or directors of Travelers or one of its subsidiaries. Travelers proposes that one of these directors may serve as chairman of the board of the fund. In addition, Travelers seeks to have up to three directors, officers, or employees of Travelers or its subsidiaries serve as senior officers of the fund and have other Travelers personnel serve as junior-level officers of the fund.<sup>95/</sup> None of these interlocks would involve an officer, director or employee of any depository institution controlled by Citigroup.

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<sup>93/</sup>(...continued)

fund, providing office facilities and clerical support for the fund, and preparing and filing tax returns for the funds. The Board previously has determined that the Glass-Steagall Act does not prohibit a bank holding company from providing advisory and administrative services to a mutual fund. See 12 C.F.R. 225.125.

<sup>94/</sup> An independent distributor would enter into any sales agreements with brokers or other financial intermediaries to sell shares of mutual funds. The independent distributor also would have legal responsibility under the rules of the NASD for the form and use of all advertising and sales literature and also would be responsible for filing these materials with the NASD or the SEC.

<sup>95/</sup> Senior officers include the president, secretary, treasurer, and vice presidents with policy-making functions. Junior officers include assistant secretaries, assistant treasurers, or assistant vice-presidents of the funds. Junior officers are fund employees who have no authority or responsibility to make policy.

The Board previously has authorized a bank holding company and its nonbank subsidiaries to have such limited director and officer interlocks with mutual funds that the bank holding company advises and administers.<sup>96/</sup> As in previous cases, the funds in this case would be controlled by their independent directors and the independent directors would be responsible for the selection and review of the investment adviser, the underwriter, and the other major service contractors of the fund.<sup>97/</sup> Based on the foregoing and subject to the condition that Travelers immediately terminate or divest its securities distribution activities, the Board concludes in this case that the mutual fund activities proposed by Travelers and described in this order are permissible under section 4(c)(8) of the BHC Act and under the Glass-Steagall Act.

C. Commodity Pool Operator and Private Investment Vehicles

Travelers has applied to act as a commodity pool operator ("CPO") for private investment vehicles, including private limited partnerships organized as commodity pools that invest in assets in which a bank holding company is permitted to invest ("CPO Partnerships"). In addition, Travelers has proposed to establish private investment vehicles that would invest in assets, such as precious metals or securities, in which a bank holding company is permitted to invest for its own account.

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<sup>96/</sup> See, e.g., Societe Generale, 84 Federal Reserve Bulletin 680 (1998); Lloyds TSB Group plc, 84 Federal Reserve Bulletin 116 (1998); BankAmerica Corporation, 83 Federal Reserve Bulletin 913 (1997); The Governor and Company of the Bank of Ireland, 82 Federal Reserve Bulletin 1129 (1996).

<sup>97/</sup> Under the 1940 Act, at least 40 percent of the board of directors of a mutual fund must be individuals who are not affiliated with the mutual fund, investment adviser or any other major contractor to the fund. The 1940 Act and related regulatory provisions require that independent directors annually review and approve the mutual fund's investment advisory contract and any plan of distribution or related agreement.



The Board previously has determined by order that acting as a CPO for and controlling a private limited partnership that invests solely in investments that a bank holding company is permitted to make directly are activities that are closely related to banking and, therefore, permissible for bank holding companies.<sup>98/</sup> Travelers has committed that all the investments of CPO Partnerships would be permissible for a bank holding company to make directly, and that Travelers will conduct its CPO activities and relationships with CPO Partnerships in accordance with the commitments relied on by the Board in Dresdner.

The Board also has authorized bank holding companies to control private investment vehicles, such as limited partnerships, that make investments that a bank holding company may make for its own account.<sup>99/</sup> Travelers currently controls private investment vehicles that have investments that would be impermissible for a bank holding company. Travelers has committed to conform, within two years of the acquisition of Citicorp, all activities and investments of these private investment vehicles to those permissible for bank holding companies under section 4 of the BHC Act and Regulation Y. Following consummation of the acquisition of Citicorp, Travelers must conduct all activities related to private investment vehicles in accordance with the Board's regulations and orders governing those activities.

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<sup>98/</sup> See The Bessemer Group, Inc., 82 Federal Reserve Bulletin 569 (1996) ("Bessemer"); Dresdner Bank AG, 84 Federal Reserve Bulletin 361 (1998) ("Dresdner").

<sup>99/</sup> 12 C.F.R. 225.28(b)(6)(i); BTNY; Bessemer.

D. Proper Incident Considerations

To approve the proposal under section 4(c)(8) of the BHC Act, the Board must determine that the proposal by Citigroup to engage in nonbanking activities under section 4(c)(8), including through the acquisition of the nonbanking subsidiaries engaged in activities that are permissible for bank holding companies under that section, can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

*Public Benefits.* Travelers maintains that the acquisition of Citicorp would result in significant public benefits. On consummation of the transaction, customers of the combined organization would have access to a wide variety of financial products and services. Customers would be able to obtain banking products (such as deposit accounts) and investment products (such as mutual funds) from the same organization. Customers of Citigroup would also likely benefit from Citigroup's enhanced ability to offer access to the financial products and services through single points of access, such as an automated teller machine, home banking, a physical branch location, or a single sales representative.

At the public meeting, a number of commenters indicated that so-called "one-stop shopping" for financial services is convenient and efficient, especially for small business owners. A number of commenters also indicated that their individual communities or businesses would particularly benefit from Citigroup having the ability to offer a broader array of products and services. In addition, commenters noted that Citigroup would have a larger geographic service area than Citicorp and, therefore, more people, businesses and community groups would obtain access to the expanded product mix.

Commenters at the public meeting contended that the acquisition presented an opportunity for greater community involvement in the areas where

Citigroup would do business. They expected that the combined organization would develop a strong community outreach program and would be able to draw on the expertise of various subsidiaries, such as SSB, to develop innovative products designed to meet special needs of various communities.

The Board also has considered that the combined organization would be a bank holding company engaged in a wide variety of nonbanking activities. Diversity of business activities should enhance Citigroup's ability to withstand cycles that affect individual types of businesses and events that affect a single industry or company. Since Citigroup would generate revenue from a wide spectrum of financial products and services, its capital strength should be enhanced.

Travelers expects that its affiliation with Citicorp would increase the ability of the combined organization to develop new and innovative financial products and to deliver these products to customers in more ways.

Travelers anticipates that the proposal also would foster stronger domestic capital markets and increased competition through its ability to combine lending, securities underwriting, corporate finance, and risk management capabilities and expertise. In addition, there are public benefits 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. For these reasons, the Board concludes that the proposal is likely to result in significant public benefits.

*Possible Adverse Effects.* Section 4(c)(8) of the BHC Act requires that the Board weigh likely public benefits against possible adverse effects of a proposal to conduct activities that are closely related to banking. As part of its analysis of this factor, the Board has carefully considered the public comments that the Board has received and information provided by Travelers and Citicorp on the measures

the combined organization proposes to take to address the potential for certain adverse effects. The Board also has considered public and confidential supervisory information received in its contacts with other federal and state supervisors of companies operated by Travelers and Citicorp, as well as the Board's experience in supervising Citicorp and other banking organizations.

Commenters expressed concern that the proposal might result in a number of potential adverse effects. In particular, some commenters asserted that allowing the combined organization to cross-market bank, insurance and securities products would provide the organization with an unfair competitive advantage over other bank holding companies and independent insurance companies, and argued that the cross-marketing activities indicated that Travelers has no present intention to conform its impermissible insurance and other activities to the requirements of section 4 of the BHC Act. Commenters also expressed concern that the combined organization would share confidential customer information, particularly information regarding the health of the customer, among its insurance and depository institution affiliates to the detriment of customers seeking to establish or maintain credit and other banking relationships and customers seeking to obtain insurance.

Some commenters also contended that, because of the size and prominence of Travelers and Citicorp within their respective industries, the proposal would result in an undue concentration of resources and in an organization that is both "too big to fail" and "too big to supervise." Several commenters expressed concern regarding the risks from insurance underwriting activities, particularly property and casualty insurance underwriting, and the potential that such risks may spread to an affiliated depository institution that is federally insured. In addition, several commenters contended that Travelers engages in predatory and high-pressured sales practices that would be increased if the transaction were approved, and that both companies fail to market and sell low-cost products in LMI communities.

(1) *Competitive effects.* As part of its analysis of the net public benefits of the proposal, the Board has considered the potential effects on competition in nonbanking services from the proposed combination of Travelers and Citicorp. The nonbank subsidiaries of Citicorp compete with Travelers in a number of geographic and product markets. For virtually all these markets, the Board has determined that the relevant geographic market is regional or national in scope. In particular, nonbank subsidiaries of Travelers and Citicorp compete in underwriting and dealing activities involving U.S. government, municipal government, asset-backed, and corporate debt and equity securities; investment advisory activities, including providing advice on mergers, acquisitions, and corporate finance; securities brokerage activities; asset management activities; brokerage of shares of mutual funds and related advisory activities; credit card operations; mortgage origination and servicing activities; consumer finance activities; syndicated lending activities; foreign exchange activities; financial data processing activities; trust services; and certain types of insurance underwriting and brokerage activities.

The record indicates that there are numerous, active competitors providing each of these products and services, and that the markets for these products and services are unconcentrated. Travelers and Citicorp offer complementary products with few significant overlaps in competition. In any product market in which one party to this merger has a significant presence, the other party has a relatively small market share. For these reasons, and based on all the facts of record, the Board concludes that consummation of the proposal would have a *de minimis* effect on competition in any relevant market.

(2) *Unfair competition.* As used in the BHC Act, unfair competition “was intended to refer to unfair or unethical business conduct (as defined by common law or under state or federal law), not disparities or advantages

based on the structure and operations of the banking industry.”<sup>100/</sup> In evaluating this potentially adverse effect, the legislative history of the BHC Act indicates that Congress intended the Board to consider whether a proposal would result in practices such as the facilitation of commercial espionage, price discrimination or inducement of a breach of contract. There is no evidence in the record that the proposal would result in these types of effects.

The Board also has considered whether the proposal would allow Citigroup to engage in unfair competition because it would, for some period, continue to engage in insurance and other activities that are not permissible generally for bank holding companies, and because Citigroup proposes to cross-market some of these products and services with products and services that may be provided by bank holding companies. The Board does not believe that the nonconforming investments and activities of Citigroup would cause Citigroup to be engaged in unfair competition. As explained above, section 4 of the BHC Act by its terms delays the applicability of the prohibitions in section 4 to the existing activities and investments of Citigroup. Consequently, retention of those investments and conduct of those activities cannot be considered to be improper or to confer an advantage that Congress believed to be unfair during the conformance period.

Moreover, as explained in more detail below, the Board does not believe that the proposal to cross-market various products and services would result in an unfair competitive advantage, as that term is intended to be construed under the BHC Act. Cross-marketing activities are not prohibited by the BHC Act or other law. In addition, cross-marketing activities are commonly conducted by other bank holding companies with grandfathered insurance affiliates and with affiliates engaged in permissible activities, as well as between bank holding companies and

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<sup>100/</sup> BankAmerica Corporation, 69 Federal Reserve Bulletin 105 (1983), quoting H.R. Rep. No. 91-1747, 91<sup>st</sup> Cong., 2<sup>nd</sup> Sess. (1970).

unaffiliated companies that sell a variety of products impermissible for bank holding companies to provide directly.

(3) *Cross-marketing activities and related effects.* Travelers asserts that significant public benefits would result from its ability, after consummation of this proposal, to market to its customers various combinations of banking, insurance and securities products. As noted above, some commenters, particularly small business owners, agreed that this type of cross-marketing would provide significant advantages to customers, including increased convenience and efficiencies. Others expressed concerns that allowing Citigroup to cross-market insurance products that bank holding companies generally are not permitted to originate or sell along with banking and securities products would provide Citigroup with an unfair competitive advantage, impair the ability of Citigroup to conform to the requirements of the BHC Act, and result in improper sharing of confidential customer information. <sup>101/</sup>

As an initial matter, the Board notes that the BHC Act does not specifically prohibit a bank holding company or any subsidiary of a bank holding company from marketing products of an affiliate, and the Board generally has not

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<sup>101/</sup> Several commenters also speculated that cross-marketing would encourage improper sales practices, particularly in LMI areas and involving LMI individuals. The sales practices related to insurance products and securities are governed by various state and federal insurance and securities laws and are enforced by designated functional supervisors. The examinations of various Citicorp affiliates does not indicate any pattern or practice of improper sales practices. Moreover, as explained in detail above, the record indicates that both Travelers and Citicorp market their products and services broadly, including in LMI areas and to LMI individuals. While Citigroup argues that the proposed cross-marketing activities would allow it to provide its products and services to a broader range of customers, Citigroup has recognized the continuing obligation of its depository institutions to help meet the credit needs of all areas, including LMI areas.

imposed such restrictions on companies held for divestiture under section 4(a)(2).<sup>102/</sup> Cross-marketing is a common activity among bank holding company affiliates. For example, a number of bank holding companies with special grandfather rights under section 4 of the BHC Act to underwrite and/or sell insurance engage in cross-marketing insurance, banking and securities products of affiliates. In addition, the record indicates that a number of bank holding companies have arrangements with unaffiliated insurance and securities firms to cross-market the same types of

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<sup>102/</sup> Several commenters pointed out that the Board has prohibited foreign banks that sought special rights to retain insurance operations in the United States from cross-marketing insurance products through offices of the foreign bank in the United States or sharing customer information among such insurance and bank operations in the United States. These cases involving foreign banks present a situation different from this case. In this case, section 4(a)(2) of the BHC Act allows Travelers to retain its insurance affiliates for a specified period as a matter of right without any exercise of discretion by the Board and without any finding on the public benefits or adverse effects that may result from retaining these affiliates. The foreign banks in the cases cited by commenters sought a special exception under section 4(c)(9) of the BHC Act that included the right to expand their impermissible insurance activities in the United States. Section 4(c)(9) authorizes the Board to permit certain qualifying foreign banking organizations to conduct impermissible activities in the United States when, in the Board's judgment and subject to any conditions imposed, the authorization "*would not be substantially at variance with the purposes of the [BHC] Act and would be in the public interest.*" 12 U.S.C. § 1843(c)(9) (emphasis added). Thus, under section 4(c)(9), the Board may grant the exception only if the Board finds that the exception is in the public interest and consistent with the purposes of the BHC Act. To meet this test, the Board approved proposals by foreign banking organizations involving impermissible insurance activities that (unlike this case) could be expanded within the United States, subject to conditions restricting cross-marketing activities during a divestiture period to avoid potential anticompetitive effects on domestic banking organizations that cannot engage in such activities. See, e.g., Letter from Jennifer J. Johnson to Michael Bradfield, November 21, 1990 (approval of a four-year, section 4(c)(9) exemption to NMB Postbank Groep N.V. and Natinale-Nederlanden N.V., to conform impermissible insurance activities); Letters from Ms. Johnson to Mr. Bradfield, December 16, 1997, and March 16, 1998 (ING Group exception to acquire Banque Bruxelles Lambert).



packages of banking, insurance and securities products and services as proposed by Citigroup. There is no evidence in the record to indicate that these practices have led to abuses or adverse effects.<sup>103/</sup>

The BHC Act, however, requires that Citigroup conform its activities and investment to the requirements of section 4 within a specified period of time, as explained above. Travelers has committed that Citigroup will conform all the activities and investments conducted by Citigroup and its subsidiaries to the requirements of the BHC Act within the conformance period provided in section 4, including through divestiture of various subsidiaries as necessary, and the Board's action in this case is expressly conditioned on Citigroup's compliance with those requirements to the satisfaction of the Board. Those requirements must be met on a timely basis, regardless of any cross-marketing activities conducted by Citigroup and its affiliates.

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<sup>103/</sup> The Board has limited or prohibited cross-marketing and customer data sharing activities in several cases where the Board was required to ascertain the public benefits of a proposal as part of the Board's discretion to allow a new activity under section 4(c)(8). For example, when the Board initially authorized bank holding companies to acquire savings associations and to affiliate with securities firms, the Board restricted the cross-marketing activities of these new affiliates in an effort to limit the potential that bank holding companies would evade (through savings association affiliates) interstate branching restrictions, and to limit the potential for adverse effects, such as the perception of tying, from the affiliation of a bank with a securities affiliate. The Board subsequently removed cross-marketing restrictions on both of these activities after gaining experience with the manner in which the underlying activities were conducted. In the notice amending the "firewalls" applicable to securities affiliates, for example, the Board noted that, "even assuming that the cross-marketing restriction helps to create competitive equality between Section 20 subsidiaries and other firms . . . the Board does not believe that keeping customers ignorant of business opportunities is an effective or appropriate way to maintain competitive equality." 61 Federal Register 57,679 (1996). As noted above, the insurance subsidiaries of Travelers may be held for a limited period pursuant to section 4(a)(2) of the BHC Act and are not subject to section 4(c)(8) during the conformance period.

Travelers has recognized that Citigroup's cross-marketing activities may not be used to impair or inhibit its compliance with the requirements of section 4 of the BHC Act, and has committed to take steps to assure that it will be able to meet the requirements of the BHC Act. In particular, Travelers has committed that each insurance underwriting subsidiary will remain independently organized and operated in order to facilitate divestitures as necessary. In addition, Travelers has committed that all cross-marketing activities that Citigroup will conduct will be on terms consistent with substantially similar programs conducted by or involving unaffiliated third parties. Moreover, any Citigroup subsidiary that currently is not engaged in cross-marketing activities may begin to sell or broker products only in accordance with Board precedent designed to assure that the marketing activities do not cause the subsidiary to become engaged in impermissible activities. <sup>104/</sup>

Travelers also argues that allowing cross-marketing would enhance the value of its insurance affiliates, thereby making it easier to divest these companies, and would significantly increase customer convenience through "one-stop shopping" during the conformance period.

In order to limit the potential for adverse effects from its proposed cross-marketing activities and to assure that Citigroup will comply with the requirements of section 4 of the BHC Act, Travelers also has committed that:

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<sup>104/</sup> For example, Board precedent permits employees of bank holding companies to sell insurance as an agent, as long as the employees are acting on behalf of a third-party agent that is permitted to sell insurance, the third party is responsible for licensing and paying the employee for insurance sales, and the bank holding company is not paid insurance commissions or does not become engaged in insurance activities for purposes of state insurance laws. See Letter from J. Virgil Mattingly, Jr., to Caroline L. Powell, Esq., May 15, 1998 (incorporating by reference Letter, from J. Virgil Mattingly, Jr., to Caroline W. Lewis, Esq., April 10, 1997, and Letter from J. Virgil Mattingly, Jr., to Russell J. Bruemmer, Esq., December 6, 1995).

- (1) any cross-marketing activities will comply with the antitying restrictions applicable to banks and their affiliates;
- (2) insurance products will be offered by Citigroup affiliates on the same terms and conditions as they are offered for sale through third-party providers to similarly-situated customers;
- (3) the terms of any cross-marketing agreement between a depository institution controlled by Citigroup and any other affiliate will be on market terms and otherwise consistent with the limitations of sections 23A and 23B of the FRA, which govern transactions between depository institutions and their affiliates;<sup>105/</sup>
- (4) customers of Citigroup will be provided an opportunity, in writing, to "opt-out" of cross-marketing activities by electing not to allow the sharing of customer information among Citigroup affiliates in different lines of business for marketing purposes;<sup>106/</sup>
- (5) customer data bases will be maintained in a manner that allows their separation in the event of divestiture and the preservation of confidentiality of customer information; and
- (6) Citicorp will establish training, audit and compliance programs to prepare, monitor and maintain compliance with these commitments and the provisions of law governing sales, transactions with affiliates, and privacy.

In addition to these commitments, the Board has taken into account that, in connection with its cross-marketing activities, Citigroup and its affiliates must abide by a number of federal and state laws that impose important disclosure

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<sup>105/</sup> Travelers has indicated that many of the agreements that it currently has with third parties and among its affiliates for the cross-marketing of products and services are not exclusive contracts that prevent the marketer from also selling the products of other companies or insurers. If the contract has an exclusivity arrangement, the contract is typically of short duration (one year or less) and/or includes a right by the marketer to terminate the arrangement on relatively short notice (between 30 days and 180 days).

<sup>106/</sup> The separate lines of business identified by Citigroup are insurance and annuities, credit cards, retail banking, and securities.

requirements.<sup>107/</sup> For example, the sale of annuities and other securities, when done on the premises of a depository institution or by a section 20 affiliate to a retail customer, must comply with the Interagency Policy Statement on Retail Sales of Investment Products. That Statement requires disclosure that annuities and securities are not FDIC insured and are subject to investment risk.

In evaluating the potential that cross-marketing activities may result in adverse effects, the Board also has considered that the market for the products and services that Citigroup proposes to cross-market is highly competitive. Neither Travelers nor Citicorp separately, nor Citigroup on a *pro forma* basis, would have a dominant market share in any of the products they intend to cross-market, including annuities, life insurance, property and casualty insurance, mutual funds, credit cards, deposit products, mortgage loans, or consumer loans. The markets for each of these products are unconcentrated and numerous competitors would continue to exist in each product market after consummation of the proposal. The competition in these markets coupled with the various rules that govern disclosure and the sale of securities, insurance and banking products limit the potential for voluntary or involuntary tying of products and services.<sup>108/</sup>

Several commenters contended that Travelers's proposal to cross-market products would result in the sharing among affiliates of confidential customer information in a manner that could result in conflicts of interests leading to customers being pressured to buy products that they do not want or need.<sup>109/</sup> In

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<sup>107/</sup> Among the federal laws imposing disclosure requirements that would govern products proposed to be sold by Citigroup are the Truth in Lending Act, the Truth in Savings Act, the Real Estate Settlement Procedures Act, the federal securities laws, and various regulations and orders issued under those laws.

<sup>108/</sup> See Commerce Bancshares, Inc., 69 Federal Reserve Bulletin 447 (1983).

<sup>109/</sup> Other commenters contended that the ability of affiliates to share confidential  
(continued...)

addition, several commenters expressed concern that medical or health information received by Travelers's insurance companies would be shared with and used inappropriately by lending affiliates.

The Board notes that the disclosure of confidential customer information is governed by a variety of federal and state laws, including the Fair Credit Reporting Act, which prohibits any company from disclosing certain types of confidential customer information obtained in the course of extending credit to a customer.<sup>110/</sup> Travelers has committed that Citigroup will comply with the requirements of all applicable laws.

To address the concerns about the use of customer information for cross-marketing purposes, Travelers has committed to implement a "Global Privacy Promise" to provide customers the right to prevent Citigroup from sharing customer information with others, including affiliates in other lines of business, for cross-marketing purposes.<sup>111/</sup> A written disclosure will be given to each customer when the customer initially purchases a Citigroup product, and the disclosure will be supplemented at least annually to provide customers an opportunity to remove their names from marketing lists. Existing customers also will receive annual disclosures under the "Global Privacy Promise" regarding this "opt-out" system. Travelers has

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<sup>109/</sup>(...continued)

customer information would increase convenience for customers, particularly small business customers who find it burdensome to provide significant amounts of customer information to multiple financial services providers.

<sup>110/</sup> See 15 U.S.C. § 1681a(d)(2)(A). In addition, a number of states have adopted statutes and regulations on the use and communication of customer information among affiliates.

<sup>111/</sup> Some commenters urged the Board to require that Citigroup disclose to each customer its intent to use customer information for cross-marketing purposes and provide customers with an affirmative right to "opt-in" before customer information may be shared with affiliates or third parties.

stated that its notices to customers providing this opportunity to "opt-out" will be communicated clearly to each customer before entering into an account relationship.

Under this system, Citigroup will cross-market its products and services only to customers of an affiliate who wish their names to remain on the Citigroup's marketing lists. Moreover, customers who elect to "opt-out" of cross-marketing will not appear on marketing lists provided by Citigroup's affiliates to third parties or to affiliates in other lines of business.

In addition, Travelers stated that a customer's medical or health information will not be shared for any marketing purposes. Travelers has indicated its intention and practice of keeping confidential all customer health and medical information, and has indicated that it will share such information only with the customer's consent or under very limited circumstances. <sup>112/</sup>

Travelers has committed that Citigroup will implement training, audit and compliance programs in each Citigroup subsidiary to ensure full implementation of this system for assuring customers an opportunity to restrict the sharing of customer information for cross-marketing purposes. In addition, Citigroup will institute training, audit and compliance programs to assure compliance with all federal and state laws governing the use of confidential customer information.

The Board concludes, on the basis of the full record, that the cross-marketing and customer-data-sharing arrangements proposed in this case are not

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<sup>112/</sup> Health and medical information would be shared only for limited purposes, including for insurance underwriting and reinsuring policies; reporting, investigating, or preventing insurance fraud; processing insurance claims or defending a lawsuit related to such claims; providing information to the customer's physician; participating in research projects (but only on an anonymous basis or as otherwise authorized by the customer); or providing information at the customer's direction or as required by law.

likely, within the framework outlined in this order, to result in any significantly adverse effects.<sup>113/</sup>

(4) *Undue concentration of resources and related effects.* The Board also has considered whether the proposal may result in an undue concentration of resources. This factor reflects Congressional concern that "concentration of economic resources in a single entity beyond a certain point [is] harmful regardless of the proven existence of any anticompetitive effects of such concentration." <sup>114/</sup> Thus, consideration of whether a proposal would result in an undue concentration of resources is a somewhat different inquiry than whether a proposal would have an adverse effect on competition.

Under this factor, the Board has in previous cases considered whether the absolute size of the institution or the institution's relative size in a specific market would result in an adverse effect on market structure. The Board has stated that the possibility of undue concentration is mitigated by the presence of a large number of competitors in the market.

The record in this case indicates that the combined organization would control only a small portion of the total assets of companies competing in the

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<sup>113/</sup> In particular, some commenters expressed concerns that customer confusion and inconvenience would result from the required divestitures if Citigroup markets a combination of financial products and services under a common brand name (or "wrapper"), without identifying the particular entities that issued or "manufactured" the products or provided the services. The sale of multiple products and services under a single brand name is not a prohibited practice and is, in fact, conducted by unaffiliated companies today. Many mutual funds include, as a feature of ownership in a single brand-named fund, a transaction-type account that is, in fact, provided by an unaffiliated depository institution. The record does not support a finding that cross-marketing would confuse or has confused customers in a way that would impair any required divestiture.

<sup>114/</sup> Alabama Ass'n of Ins. Agents v. Board of Governors of the Federal Reserve System, 533 F.d 224, 251 (5th Cir. 1976), *modified* 558 F.d 729 (5th Cir. 1977), *cert. denied*, 435 U.S. 904 (1978).

markets in which Citigroup would compete. For example, the combined domestic assets of Citigroup, on a *pro forma* basis, would represent less than 5.5 percent of the total domestic assets of commercial banks and insurance companies for 1997, and less than 3 percent of the total domestic assets of financial companies engaged in the broader lines of business proposed to be conducted by Citigroup.

In addition, there are a significant number of small, medium and large competitors in each of the markets in which Citigroup would compete, including companies that provide the same range of products and services that Citigroup proposes to provide. There is no evidence in the record that the size or breadth of Citicorp's activities would allow it to distort or dominate any relevant market.

As explained in detail above, the Board has extensive experience supervising Citicorp and, building on that experience, has developed a comprehensive, risk-based supervision plan to permit the Board to monitor the combined organization on a consolidated basis. This plan includes coordination and cooperation with other supervisory agencies, such as the SEC and state insurance supervisors, to assist the Board in understanding Citigroup's business and the risk profiles of those businesses.

In addition, the Board notes that Travelers controls only a small savings association and a limited-purpose bank. Consequently, the proposal would not increase significantly the amount of deposits insured by the FDIC that would be controlled by a single organization. The Federal Deposit Insurance Act also prohibits the FDIC from providing assistance to shareholders of depository institutions and therefore, limits the potential that federal deposit insurance would be used to protect Citigroup or its nondepository institution affiliates.

(5) *Other potential effects.* As part of its review of the factors under section 4(c)(8) of the BHC Act, the Board has considered the financial and managerial resources of Citigroup and its proposed subsidiaries and the effect the transaction is likely to have on those resources. For the reasons explained in detail



above, the Board finds that the financial and managerial resources of these companies weigh in favor of approval of this proposal.

The Board also has reviewed the capitalization of Citigroup, SSB, Robinson, and CSI in accordance with the standards set forth in the Section 20 Orders and finds the capitalization of each to be consistent with approval. The Board also finds that, under the framework established in this and prior cases for conducting limited securities underwriting and dealing activities, including the operating standards adopted by the Board, the conduct of limited securities underwriting and dealing activities through SSB, Robinson and CSI is not likely to result in any significantly adverse effects. The Board's action in this case is conditioned on compliance by Citigroup and its domestic subsidiaries, including SSB, Robinson and CSI, with the prudential limitations established in the Section 20 Orders, as revised. As noted above, the Board also has conducted a preliminary due diligence of the policies, procedures, and controls of SSB and Robinson to ensure that they would have the necessary policies and procedures to comply with the requirements of this order and the Board's Section 20 Orders, including computer, audit and accounting systems, internal risk management controls, and the necessary operational and managerial infrastructure. This order is conditioned on completion of a successful examination of the securities activities, policies, and procedures of SSB and Robinson to be conducted subsequent to consummation.

*Conclusion Under Proper Incident Test.* Under section 4(c)(8) of the BHC Act, the Board is required to determine whether the public benefits reasonably expected from the nonbanking aspects of a proposal outweigh possible adverse effects. The record indicates that significant public benefits are likely to result from consummation of the nonbanking portion of this proposal. For example, Citigroup would be able to offer its customers a broader array of products and services, and customers would benefit from the convenience and efficiencies of "one-stop shopping" for financial products and services. On consummation of this proposal,

Citigroup would be a well capitalized banking organization that would be able to compete effectively with banking organizations worldwide. As a result of the transaction, the combined organization could use its broader resources and expertise to develop and implement innovative products and services and to offer existing products and services more efficiently.

The potential for adverse effects from the nonbanking portion of this proposal are limited and are significantly mitigated by the commitments for safeguarding confidential customer information, the framework for proposed cross-marketing activities, the prudential and other limitations imposed by the Board's orders and regulations governing various nonbanking activities, and the fact that the transaction would not result in a substantial adverse effect on competition.

Accordingly, based on all the facts of record, the Board has determined that the balance of public benefits that it 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 the proposal. The Board's approval of the proposed nonbanking activities is conditioned on Citigroup's compliance with the limitations set forth in Regulation Y and the Board's orders, including its Section 20 Orders as revised, the Board's interpretations relating to each of the nonbanking activities, and the conditions described in this order.

#### Section 23A Exemption Request

In connection with this proposal, Travelers and Citicorp have requested an exemption from the quantitative requirements of section 23A of the FRA<sup>115/</sup> in order to transfer the stock of CMI, a U.S. subsidiary of Citicorp engaged in mortgage banking, to Citibank and for Citibank to purchase the stock of Commercial Credit Corporation CCC Limited ("CCC"), a Canadian subsidiary of Travelers engaged in consumer finance.

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<sup>115/</sup> 12 U.S.C. § 371c.

Section 23A limits the amount of "covered transactions," which include loans and purchases of assets between a bank and any single affiliate, to 10 percent of the bank's capital stock and surplus and limits the aggregate of all covered transactions between a bank and all of its affiliates to 20 percent of the bank's capital stock and surplus. The transfer of CMI to, and the purchase of CCC by, Citibank are covered transactions for purposes of section 23A. Section 23A specifically authorizes the Board to exempt "at its discretion . . . transactions or relationships from the requirements of this section if it finds such exemptions to be in the public interest and consistent with the purposes of this section". <sup>116/</sup>

The Board has approved similar transactions in connection with one-time transfers of assets or companies that are part of a corporate reorganization and that are structured to ensure the quality of the transferred assets.<sup>117/</sup> Travelers maintains that the transfer of CMI from the bank holding company would "facilitate financing for CMI's mortgage business" and that "Citibank has ample sources of liquidity with which to provide funding to CMI." Citibank maintains that allowing CMI access to Citibank's funding sources would result in benefits to CMI's customers. Travelers proposes to transfer the shares of CMI to Citibank and has committed that Citigroup will make quarterly capital contributions to Citibank to compensate Citibank for any loans in CMI's portfolio that become classified as low-quality assets within two years of the transfer.<sup>118/</sup>

Travelers proposes to reorganize its Canadian operations in accordance with Canadian law by making CCC, a relatively new company engaged in consumer

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<sup>116/</sup> 12 U.S.C. § 371c(e)(2).

<sup>117/</sup> See Letter from James McAfee to Timothy C. Roach, Esq., April 19, 1988; Letter from William W. Wiles to Timothy McGinnis, August 6, 1987.

<sup>118/</sup> For purposes of compliance with this commitment, "low-quality assets" has the same meaning as in section 23A(b)(10). 12 U.S.C. § 371c(b)(10).

finance activities in Canada, an indirect subsidiary of Citibank. Citibank proposes to purchase the shares of CCC from Citigroup for an amount that approximates the book value of CCC's assets (minus any low-quality assets) at the time of the transfer. CCC's low-quality assets would be donated to Citibank. In addition, Citigroup has committed to make quarterly capital contributions to Citibank to compensate it for any assets that become low-quality assets within two years of the date of the transfer.

The transfer of CMI and the purchase of CCC are one-time corporate reorganizations that appear to be on terms at least as favorable to Citibank as terms that would be offered to third parties. The assets of CMI have been subject to examination and supervision under policies of the federal banking agencies. CCC is a newly formed subsidiary with few assets. Citigroup has committed to ensure the quality of the assets transferred with quarterly contributions as necessary. On this basis, and subject to these commitments, the transactions appear to be in the public interest and consistent with the purposes of section 23A, and the Board hereby grants the requested exemptions.

#### Investments and Activities Abroad

Travelers has requested authority under the BHC Act and Regulation K to retain a number of foreign subsidiaries, joint ventures and portfolio investments and to continue to engage in certain activities abroad after consummation of the proposal. Travelers also has requested authority to retain the foreign subsidiaries, joint ventures and portfolio investments of Citicorp.

A. Foreign Equity Underwriting and Dealing Activities

Travelers seeks authority under section 211.5(d)(14) of Regulation K for several subsidiaries and joint ventures to engage in equity underwriting and/or dealing activities abroad.<sup>119/</sup> After reviewing the controls Travelers has adopted for these activities and finding them to be consistent with approval, the Board approves this request. Travelers also has requested that certain of its subsidiaries abroad be permitted to exceed the equity underwriting and dealing limits set out in this section. In support of this request, Travelers states that many of these foreign subsidiaries currently underwrite and/or deal in excess of these limits and that, without authority to continue to take positions in excess of these limits, these companies effectively would have to curtail substantially their business in foreign markets.

The Board agrees that requiring Travelers's foreign securities subsidiaries to be in compliance with the limits in section 211.5(d)(14) of Regulation K on consummation would cause a disruption of their business and an undue hardship. Based on all the facts of record, the Board has determined to grant Travelers a period of six months under section 4(c)(13) of the BHC Act to provide Travelers the opportunity to conform and, if necessary, to restructure its foreign equity operations to meet the applicable Regulation K limits.

B. Portfolio Investments

Travelers has requested authority under section 4(c)(13) of the BHC Act and sections 211.5(c) and 211.5(b)(1)(iii) of Regulation K to retain portfolio investments in a number of foreign companies and to acquire indirectly the portfolio investments of Citicorp. Travelers has stated that, to its knowledge and after substantial due diligence, the portfolio investments held by it--and by it and Citicorp together--comply with the individual and aggregate limits on portfolio investments in

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<sup>119/</sup> 12 C.F.R. 211.5(d)(14).

Regulation K.<sup>120/</sup> Travelers also has stated that portfolio investments to be made in the future would comply with these provisions. Certain of Travelers's portfolio investments in foreign companies, however, do not appear to comply with restrictions in Regulation K on a foreign company's direct or indirect activities in the United States.<sup>121/</sup> In these circumstances, the Board authorizes Citigroup to retain the following investments: (1) under section 4(c)(13) of the BHC Act and section 211.5(c) of Regulation K, all existing portfolio investments that fully comply with Regulation K limits; and (2) under section 4(a)(2) of the BHC Act and only for the conformance period, any existing portfolio investments that do not comply with Regulation K limits for any reason.<sup>122/</sup>

C. Westpac Investment

Travelers has an investment in 6.3 percent of the shares of Westpac Banking Corporation, Sydney, Australia ("Westpac"), which directly and indirectly engages in permissible banking and nonbanking activities in the United States. Travelers has requested that the Board exercise its discretion under section 211.602 of Regulation K to allow it to retain this investment.<sup>123/</sup> The Board has stated that it would allow a U.S. banking organization to hold an investment in a foreign company that engages in business in the United States as long as certain criteria are satisfied. The Board has determined that Travelers's investment in Westpac meets these criteria and that this investment may be retained under section 211.602 of Regulation K.

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<sup>120/</sup> See 12 C.F.R. 211.5(b)(1)(iii)(A) and (B).

<sup>121/</sup> See 12 C.F.R. 211.5(b)(4)(i)(B).

<sup>122/</sup> Travelers also has requested authority under section 4(a)(2) of the BHC Act to make new portfolio investments for its own account for investment purposes, which would not comply with the Regulation K limits. The Board denies this request.

<sup>123/</sup> See 12 C.F.R. 211.602.

D. Other Subsidiaries and Joint Ventures

Travelers has requested authority to retain a number of other subsidiaries and joint ventures that engage in activities permissible under Regulation K.<sup>124/</sup> The Board approves this request. To the extent that any activities or investments of an existing subsidiary or joint venture of Travelers otherwise do not comply with the requirements of Regulation K, such entity may be retained under section 4(a)(2) of the BHC Act and must be conformed to the requirements of Regulation K within the conformance period.<sup>125/</sup>

Requests for Additional Public Meetings

Some commenters requested that the Board hold additional public meetings or hearings on the proposal in other areas that might be affected by the merger, including California, Florida, Illinois, and Washington, D.C. The Board has carefully considered these requests in light of the BHC Act, its Rules of Procedure, and the substantial record developed in this case.<sup>126/</sup>

As explained above, the Board held a two-day public meeting on the proposal in New York to clarify issues related to the applications and notices and to

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<sup>124/</sup> The Board also has no objection to Travelers's proposed acquisition of Citicorp's export trading company, Edge corporation and agreement corporation.

<sup>125/</sup> Travelers's recent investment in The Nikko Securities Company, Ltd, Tokyo, Japan ("Nikko"), appears to conform to the requirements of Regulation K relating to joint ventures. Nikko has operations in the United States, which also must conform to the requirements of Regulation K within two years.

<sup>126/</sup> 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. See 12 U.S.C. § 1842(b). In this case, the Board has not received such a recommendation from any state or federal supervisory authority. Section 4 of the BHC Act and the Board's rules thereunder provide for a hearing on a notice to acquire a savings association, such as Citibank FSB, if there are disputed issues of material fact that cannot be resolved in some other manner. See 12 U.S.C. § 1843(c)(8); 12 C.F.R. 225.25(a)(2).

provide an opportunity for members of the public to testify.<sup>127/</sup> Approximately 115 interested persons appeared and provided oral testimony at the public meeting, including individuals and representatives of organizations and businesses from Connecticut, Delaware, Florida, New Jersey, New York, and Washington, D.C. In addition, the Board has received and considered written comments from more than 310 interested persons who did not attend the public meeting, including from each of the locations where additional public meetings were requested, and from more than 17 other states.

In the Board's view, all interested persons have had ample opportunity to submit their views either in writing or orally at the two-day public meeting in New York. Numerous commenters have, in fact, submitted substantial materials that have been carefully considered by the Board in acting on the proposal. Commenters requesting additional public meetings or hearings have failed to show why their written comments do not adequately present their views, evidence and allegations, and why the public meeting in New York did not provide an adequate opportunity to present oral testimony. Moreover, the Board has carefully considered the lending records of Citicorp and Travelers separately in the locations where commenters requested public meetings. 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 denied.

### Conclusion

In evaluating this proposal under existing law, the Board has carefully considered the information and views presented by all commenters, including the information and testimony provided at the public meeting and the views and

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<sup>127/</sup> See 12 C.F.R. 262.3(e) and 262.25(d).



information submitted in writing.<sup>128/</sup> The Board also has considered all the information presented in the applications and notices and in supplemental filings by Travelers as well as various reports filed by the relevant companies and publicly available information and other reports. In addition, the Board has reviewed confidential supervisory information, including examination reports regarding the companies and depository institutions involved, and information provided by the other federal banking agencies, the Department of Justice, and the NYSBD.

For the reasons discussed in this order, and after a careful review of all the facts of record, the Board has concluded that, subject to the conditions noted in this order, including the termination, conformance or divestiture of certain activities that are not now permissible for bank holding companies in a manner acceptable to the Board, the proposed transaction is permissible under the BHC Act, the Glass-Steagall Act and other relevant statutes, as currently enacted, and that the statutory factors the Board is required to consider under the BHC Act and other relevant banking statutes are consistent with approval of the proposal. In reaching its conclusion, the Board has considered all the issues raised in public comments filed

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<sup>128/</sup> A number of commenters requested that the Board delay action until pending lawsuits, investigations or administrative actions against Travelers and Citicorp are resolved. As noted above, these matters are in the proper forums to provide appropriate remedies and redress, if the allegations of wrongdoing can be sustained. Therefore, the requests for delay do 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. In the Board's view, for the reasons discussed above, commenters have had ample opportunity to submit their views and, in fact, 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 that further delay of consideration of the proposal or denial of the proposal on the grounds discussed above or on the basis of informational insufficiency is not warranted.

in connection with the proposal in light of the factors that the Board is required to consider under the BHC Act and other applicable statutes and concludes that the comments do not warrant a delay or denial of the proposal.<sup>129/</sup>

Based on the foregoing and all other facts of record, the Board has determined that the applications and notices should be, and hereby are, approved. The Board's approval is specifically conditioned on compliance by Citigroup with all the commitments made in connection with these applications and notices, and all the terms and conditions discussed in this order and the above-noted Board regulations and orders. The Board's approval of the nonbanking aspects of the proposal also is subject to all the terms and conditions set forth in Regulation Y, including those in sections 225.7 and 225.25(c) of Regulation Y (12 C.F.R. 225.7 and 225.25(c)), and 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 issued thereunder. These commitments and

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<sup>129/</sup> Some commenters have asked that the Board's Chairman, its General Counsel and members of the General Counsel's staff recuse themselves from consideration of the applications and notices or, alternatively, that the applications and notices be dismissed, because of discussions that occurred between these individuals and representatives of Travelers and Citicorp before the applications and notices were filed. The commenters claimed that Travelers sought and received prior approval of certain aspects of the applications and notices in these discussions, thereby depriving the commenters and others of an opportunity to comment meaningfully on all aspects of the proposal. The Board has carefully considered this request and concludes that neither dismissal nor recusal are warranted. The Board finds no factual basis for commenters' claims that any aspect of the applications or notices was pre-approved. Moreover, all matters discussed in the prefiling meetings that could be material to the Board's decision on the applications and notices were later made part of the public record. Finally, the Board finds that the prefiling discussions were proper both as a matter of Board policy and as a matter of administrative law. See Action for Children's Television v. FCC, 564 F.2d 458, 474 n.28, and 477 (D.C. Cir. 1977).

conditions are 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 Citigroup.

The acquisition of Citicorp's subsidiary banks may not be consummated before the fifteenth calendar day after the effective date of this order, and the proposal may not 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 New York, acting pursuant to delegated authority.

By order of the Board of Governors,<sup>130/</sup> effective September 23, 1998.

(signed)

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Robert deV. Frierson  
Associate Secretary of the Board

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<sup>130/</sup> Voting for this action: Chairman Greenspan, Vice Chair Rivlin, and Governors Kelley, Meyer, and Gramlich. Abstaining from this action: Governor Ferguson.