Panel 2,

Good Morning my name is George A. Bivins, Jr. Chairman of the Black Business Assn of Los Angeles. We have over 850 African American Business Owners many are customers of BofA. Take any statistics compiled by local, state or Federal govt regarding banking including the many statistical reports compiled by independent surveys and you will find African Americans consistently benefiting less from banks, S&L's and Thrifts.

Government/Regulators must take action to protect us. My Colleagues and I would not be here today

of Bank of America and Nation's Bank
were good Corporate Citizens. The BBA We
share the lack of confidence of this
merger along with the National Black
Business Council and the National Black
Chambers of Commerce These 3 organi
zations Nationwide represent over 75,000
Black Businesses Nationwide. We are
prepared to prove that less than 1%
of the dollar value of all business
loans let by these 2 Banks went to
African Americans businesses. What
we have here is a clear case of
white wealth built on Minority
labor. Regulators here are Pleas

The Black Community demands inclusion. Inclusion leads to growth exclusion leads to poverty for our communities. Regulators here our plea. Less than 2% of BofA and Nations Banks vendor contracts are awarded to African Americans unlike its competitors Wells Fargo, Union Bank and Sanwa Bank. Inclusion leads to growth, exclusion leads to poverty Regulators here our plea. They are unwilling to set goals of any kind They throw out large #'s such as $350 Billion CRA committment — How Do you monitor that?

Regulators here our plea! There are many pending race discrimination cases before the justice dept. while these cases are awaiting to be heard - The large # of cases filed would suggest their is diffinent by some valitidy to most of these cases. Regulators here our plea. B of A lost millions of dollars over seas but were bailed out by the IMF but minorities can't get a small business loan. Regulators Please here ar Plea!

Is this the out line of a good corporate citizen? This is how BofA and Nations Represent themselves to you but they can't fool us. We have had the opportunity to deal with them on a first hand basis. This merger brings Capitalism to our communities but w/o Capital!!! During the civil rights movement we won everything we ~~fou~~ fought for but we don't have what we need. Regulators please here our plea.

Panel 2

STATEMENT OF STELLA J. ADAMS
REGARDING THE MERGER
OF
NATIONSBANK
AND
BANK OF AMERICA

Mr. Chairman, and members of the Federal Reserve Board, My name is STELLA J. ADAMS, and I am the Executive Director of the North Carolina Fair Housing Center and Secretary of the Community Reinvestment Association of North Carolina.

I bring you greetings on behalf of the people from the woods and the 'hoods of North Carolina. Our State motto is [redacted] "To Be Rather Than To Seem".

I am here because the people who have asked me to come and speak on their behalf want "to be". They want to be homeowners, they want to be entrepreneurs and business owners,, they want to be residents in safe and healthy communities, they want to be residents in racially and economically diverse neighborhoods, they want to be catalysts for positive change in their communities.

By contrast, NationsBank "seems to be." Nations seems to be a leader in providing mortgag loans to low wealth and minority customers. Nations seems to be a leader in lending to small businesses, Nations seems to be a leader in making loans to African American and Female entrepreneurs, Nations seems to be a leader in Community Reinvestment.

But I can honestly say to you that NationsBank expansion west has reduced its commitment at home. NationsBank was the Number 1 bank in North Carolina when it merged with C&S/Sovra i[redacted]8. It is now the number 5 bank. It used to be "the best bank in the neighborhood". You ask any native tarheel who had that slogan and they will readily answer NCNB. Now that it has a focu on being the best bank in the world. Our neighborhoods in NC have become insignificant. We are worried about our future with this bank. ~~We were told that the new bank took the same~~

~~BankAmerica because of the over one hundred year old tradition that the bank had in San Francisco, I shared a little history with a member of the NationsBank staff our relationship with this bank is over 124 years old~~. How long will it be "profitable" to remain headquartered in a state in which you are not a competitor? Nations certainly shows no interest in obtaining greater marketshare. When we shared our concerns about their commitment we were met with a sorta "what do you expect we're not the biggest bank in the state" attitude. Well when I share with their competitors where they are missing the mark they have a "what can we do together to improve this attitude"

Nationsbank's commitment to community reinvestment is all smoke and mirrors. This is easy to do when one has no set target and no set goals. Who then can question whether or not you have done enough? Who then can say that you've accomplished anything longstanding? I enter into the record a community needs assessment for the state of North Carolina. I expect you to do your job and decide if a demand driven approach will address this need.

I understand that Hugh McColl is a great military strategist, and he has certainly carried out his campaign to become the first coast to coast bank with the determination and brilliance of Patton or is it more like Sherman's march to the Sea.

He has developed a clear vision and a strategic plan of action for every stage of this merger except one... and that is the Community Investment program. Instead of precision planning and targeting to get the biggest bang for the buck and to provide lasting improvements. He has opted for a scattershot approach. Where you are sure to hit something but you are not necessarily having an impact.

We want a strategic plan of action, we want quantifiable goals and objectives to meet the Credit needs of our communities.

Here's to the land of the long leaf pine, the summer land where the sun doeth shine, where the weak grow strong, and the strong grow great, heres to down home the old North State.

The people of North Carolina helped its financial institutions grow Great through our deposits, our loyalty and our visionary banking laws. NationsBank is honorbound to serve the people of North Carolina and the other underserved communities throughout the franchise. We are not Unprofitable customers, we ask only for access to capital and the opportunity to prosper and to grow strong.

Earl Lui
9:10 am Thursday

Panel 2

Consumers Union

Publisher of Consumer Reports

June 11, 1998

Mr. Linn Gill
Federal Reserve Bank of Richmond
P.O. Box 27622
Richmond, Virginia 23261

Subject: Comments on NationsBank/Bank of America Merger Application

Dear Mr. Gill:

Consumers Union, the nonprofit publisher of *Consumer Reports* magazine, is submitting these comments on the proposed merger of Bank of America and NationsBank and to raise concerns about the merger's impact on consumers. The Federal Reserve Board has authority under the Bank Holding Company Act to address public interest concerns. The Board should require conditions prior to approval so that the concerns and needs of the communities in which the merged bank operates are met, including adopting consumer protections and ensuring that basic banking services for low and moderate income consumers are promoted, not harmed, by the merger.

A. Essential conditions of any approval

In evaluating the impact of the proposed merger on the convenience and needs of the public, we urge the Federal Reserve Board and System to consider the potential for harm to consumers from the use of cookie-cutter products, higher fees, loss of consumer privacy, expanded cross-selling, and an approach to community reinvestment which must focus on local needs or community strengthening. If this proposed merger is approved, we believe that the merged bank should be required to make the following commitments as conditions of approval:

1. **Commit to not increase current fee levels and minimum balance requirements, or to introduce new fees on existing products or services for a reasonable period of time, which will benefit, in particular, consumers who have limited banking choices because of resource constraints or geography.** We know from the experience of customers in California after previous mergers of Bank of America/Security Pacific and Wells Fargo/First Interstate, that in the short term, consumers face confusion, changes in accounts, and loss of convenience while systems are being integrated. Moreover, while banks tell consumers that "bigger is better," studies by the Board and others show that large banks charge higher fees for many types of accounts than smaller banks, and that multi-state banks charge higher fees than single-state banks.

2. **Dedicate a significant portion of the projected benefits in cost savings from each merger for the first five years after the merger to increase access to banking services and credit for low income consumers.** A set-aside for the unbanked and other low income consumers of some of the promised cost savings from the

proposed merger would help to ensure that even more consumers are not excluded from the banking system as a consequence of the merger.

3. **Commit to reach an agreement with community groups and Community Reinvestment Act coalitions in every affected state on future CRA commitments before regulatory approval. These agreements should describe specific programs and specific dollar goals for CRA activity in each area.** This guarantee would help focus the attention of the new nationwide bank on local needs. The large dollar goals announced by NationsBank for the merged bank are unlikely to result in real progress unless they are a first, not a last, step in a process to build programs that serve local needs which are not already served by the banking system.

4. **NationsBank must commit to comply with all state consumer laws, rules, and regulations in every state where it operates.** This would ensure that consumers get the benefit of their own state's consumer protection laws even when the bank is headquartered in North Carolina.

5. **Adopt strong consumer safeguards on retail sales activities and agree to be responsible for losses arising from violations of these safeguards.** Safeguards are needed to protect consumers from being coerced into buying products they don't need to get the products they want, from the loss of financial privacy, from being deceived about whether a product is federally insured, and from being sold products not suitable to a particular consumer's financial needs. Further, a redress mechanism is needed for consumers to be able to recover losses from the bank when they violate the rules. Until the FFIEC puts strong regulatory safeguards in place, merger approval should be conditioned upon an agreement to comply with protections against deceptive and misleading practices. The nearly $7 million in penalties paid to three regulatory entities in May 1998 by NationsBank illustrates the need for these protections.

B. Community reinvestment: NationsBank's merger application

The impact of this merger on the convenience and needs of the communities where the bank will operate will be highly affected by the components and structure of its CRA program. The details of the proposed CRA program should be provided in additional filings in the merger approval process and discussed in public hearings held in major market areas throughout the country. While the merger application discusses current and past CRA activities in great detail, it does not reveal which of those programs will be retained in the merged bank. The merger application states that these decisions have not yet been made.

The portion of the application referring to past CRA performance reveals many similar programs, but also very significant differences in the types of programs currently offered by the two banks. These differences include the level of their commitment to important areas such as affordable housing lending, consumer lending, loans to the disabled, and penetration by LMI applicants or geographies in their relative applicant pools for home mortgages and small-business loans.

The comparison chart below is drawn from information contained in the merger application which illustrates some of the differences between the two banks. For example, NationsBank and Bank of America have very different percentages of applicants for home mortgage and home improvement loans who are of low or moderate income, as shown in the lines of their charts titled "LMI applicants" in NationsBank's Annex B and the Bank of America table which follows it in the CRA appendix to the merger application. According to these documents, 11.4% of NationsBank's applicants for home mortgage and home improvement loans were of low and moderate income, while 20.2% of Bank of America's applicants for the same types of loans were of low and moderate income.

Similarly, Bank of America received a higher percentage of its small business applications from LMI geographies, according to the 1997 numbers filed with the merger application. The Bank of America table reveals that 27.1% of its small-business applicants were from LMI geographies, while for NationsBank the figure was 21.5%. Bank of America also shows a somewhat higher penetration of branches in LMI geographies – 25% vs. 22%. To the degree that these differences suggest that the two banks have different target markets, differences in effectiveness of outreach or in the desirability of their products to lower income applicants and geographies, these differences should be thoroughly explored by the regulators and public before the merger is considered for approval.

Comparison of Selected Community Reinvestment Act (CRA) and Community Outreach Programs*

TYPE	NATIONSBANK	BANK OF AMERICA
1997 percent of LMI (mortgage and home improvement) applicants as a percentage of such applicants	11.4% (34,803 of 305,931) (Source: Annex B)	20.2% (28,800 of 142,500) (Source: Bank Table)
1997 percent of small business applicants from LMI geographies	21.5% (13,130 of 61,149) (Annex B)	27.1% (18,055, Bank Table gives % but not base) (Bank Table)
Percent of banking centers/branches in LMI geographies	22% of banking centers (Application p. 9)	25% of branches (Application p. 14)
Percent of ATMs in LMI geographies	22% of banking centers (Application p. 9)	application silent
Low cost checking	yes, fee not listed (Application p. 9)	application silent
Number of languages available at ATMs	2 (Application p. 9)	4 (Application p. 14)

* As described in merger application. Unless otherwise noted, all page citations are to the appendix to the application titled: Performance of NationsBank and Bank of America Under the Community Reinvestment Act of 1997.

In-branch customer service phones with multiple languages	application silent	yes, selected branches offer Chinese, Korean, Spanish and Vietnamese (Application p. 14)
Loan program for the disabled	application silent	yes (Application p. 11)
Secured credit card with automatic graduation feature	application silent	yes (Application p. 11)
Programs to expand access of LMI customers to computers	application silent	yes, community access initiative (six locations) (Application p. 20)
Disaster relief program	application silent	yes (Application p. 15)
Affordable housing lending	*Community Development* Lending Unit has made $350 million in loans to benefit consumers at 80% or less of median income (includes commercial and retail space). (Application p. 6)	*$1.7 billion in past five years in* affordable housing loans. Sponsored more than 100 successful AHP applications. (Application p. 13)
Tax credit investments	Has made more than $340 in investments or commitments plus some fund investments. (Application p. 16)	Has invested more than $590 million in the past five years. (Application p. 13)
Bond financing for affordable housing	application silent	yes, integrates construction and 30-year fixed-rate financing (Application p. 19)
Fannie Mae Special Affordable Housing Lender status (for multi-family lending)	application silent	yes, first in the U.S. (Application p. 20)
Border town "colonias" development program	application silent	yes, initial investment is only $500,000 (Application p. 20)

Financing for child care centers	yes, for-profit centers (Application p. 5)	yes, focus on low and moderate income communities; childcare facilities in affordable housing developments financed in Los Angeles; working on bond finance program (Application p. 19)
Expedited small business loan approval	yes, 2 state pilot, average loan size $100,000 (Application p. 5)	Yes, ABC and MWBE, $2,500 to $100,000 loan size range (Application p. 12)
SBA FASTRAK status	yes (Application p. 5)	yes, average loan size $20,000 (Application p. 13)
Fair lending customer advocate program	yes (Application p. 6)	application silent
Spanish loan by phone and Spanish loan documentation	application silent	yes (Application p. 11)
Special underwriting for low and moderate income consumer loans	application silent	yes, BASIC (Application p. 10)
Minority-owned bank investments	yes (Application p. 16)	application silent
Below market rate financing for home loans	yes (Application p. 15)	application silent
Zero down payment home-buyer program	yes (Application p. 5)	yes (Application p. 18)
Rural initiative	application silent, but May 1998 pledge says BofA's rural initiative will be "leverage[d]"	yes (Application p. 18)
Environmental policies and principles unit	application silent	yes (Application p. 20)

At least in California, the Bank of America has taken the view that CRA is more than a numbers game. It has created an institutional culture in which credit – and to a lesser extent services – to lower income consumers and to the nonprofit community that serves the poor are fully integrated into the business plans of the operating units.

Bank of America's record in California suggests that it has learned to ask itself internally the important question that community groups often are asking from the outside: What is being done to build the necessary infrastructure to bring lower income people more fully into our economy? How can the bank contribute to the health, stability and development of low income communities and neighborhoods? What are the future challenges facing these communities, and what products should the bank be developing now to meet those challenges? If the merged entity does not have a process, an institutional structure, and a determination to ask and address these questions, then the merger will be a great loss for low income consumers in California and perhaps throughout the country.

C. NationsBank's/Bank of America's CRA announcement

Because the merger application discusses only the past CRA record of the two banks, and not their plans for the future, the May 20, 1998 CRA announcement by NationsBank is of crucial importance to communities throughout the U.S. This CRA dollar goal announcement should be the beginning, not the end, of a national discussion about the merged bank's CRA plans. CRA dollar goals are useful only if they are part of a process to institutionalize a goal to integrate credit and services for the underserved into every part of the bank. To be meaningful for low income consumers and communities, CRA dollar goals must:

1. be tied to specific programs;

2. target underserved groups;

3. be accompanied by detailed business plans to reach underserved communities with products that are designed to meet the needs of those communities;

4. be sufficiently detailed and specific so that they can't be satisfied just by continuing programs for credit already being extended by the bank; and

5. provide measurable subtargets by topic and region so that both the bank and communities can measure progress.

A general large dollar goal which is not backed with a business plan to extend credit and services to the underserved can be misleading and can create unfulfilled expectations in underserved communities. Consumers Union is a member of the California Reinvestment Committee (CRC). We attend community meetings hosted by the CRC in different parts of urban California. One of the most common messages we hear at those meetings is that low income communities are not seeing additional credit on the street, even several years into large, multi-year dollar goals by several California banks.

In the past few years, a number of financial institutions have announced large dollar goals which can be met in large part by "business as usual" – more careful counting of lending that is already occurring. Unless it is supplemented with local and regional CRA agreements and more specific targeting, this could be a primary effect of the recent announced goal.

Items that are missing from the NationsBank/Bank of America CRA announcement

One could legitimately ask: What could be wrong with a $350 billion promise? The announcement could serve as a first step toward a meaningful CRA program, but only if much more work is done targeting state and regional goals, and other additions are made. Here are some of the items that are missing from the pledge:

1. The $350 billion pledge is not enforceable

The announced commitment is not enforceable in its present form. Neither the merger application nor the commitment states that the commitment will be made part of the merger application or that it is offered as a condition of merger approval. The regulators must make CRA and related commitments a condition of approval. The OCC and Federal Reserve staff have stated at various times that they lack the authority to enforce promises made by banks to community groups under the CRA. It is likely that the CRA announcement will be considered by the Board as evidence on the issue of whether the merger meets the convenience and needs of the community. If the announcement is considered by the Board, then its provisions must be made enforceable by making compliance with it a condition of any approval.

2. No promises on access to deposit services and to branches

The announcement is silent on critical questions such as the means that will be used to promote access to services for consumers who are presently unbanked and overcharged in the so-called "alternative" financial services sector. Providing access to deposit services is essential to good CRA performance. In this age of welfare to work, there can be no dispute that bringing lower income consumers more fully into the financial services mainstream is fundamental to the convenience and needs of the communities where those consumers live.

The announcement also does not discuss branch location, future branch closure plans (either as a result of general cost-cutting in a post-merger environment or in states with overlap such as Texas), future plans for offering a low-cost checking account, or the development of an account to serve the unbanked. Studies suggest that one of the deterrents to use of the traditional banking system by low income consumers is the design of traditional checking accounts. In particular, a bounced check fee can significantly drive up the cost of an account held by one who is not sophisticated in account management. NationsBank's $25 bounced check fee from its Texas fee schedule certainly presents this potential.

3. Absence of specific state and local goals

The announcement lacks state-specific goals. It lacks any information about the dollars that will be allocated to Texas, to California, or to any of the other 20 states where the merged bank will do business. Moreover, the announcement fails to address how the merged bank will meet the credit needs of specific regions within large states, such as Texas and California. Added specificity is needed. Every state which is considering the impact of this merger deserves to know what the corporate commitment is to its own region.

Community groups nationwide have struggled for many years to turn the Community Reinvestment Act (CRA) into a viable tool for revitalizing their communities. Consumers Union is an active member of both the California Reinvestment Coalition and the Texas Community Reinvestment Coalition. These CRA groups were formed during tumultuous periods in our financial industry to ensure that the credit needs of their states' local communities were not ignored. This work has led to meaningful commitments between banks and community groups and a heightened awareness of inequities in the financial industry. It is important that the broad pledge for the merged bank not be a substitute for existing and future efforts at the local and state levels. Further, it is critical to the financial health of our underserved communities that the banks enter into negotiations with local groups to form useful, sustained agreements before any approval of this merger.

The California Reinvestment Committee is actively seeking a written commitment by NationsBank on issues including:

1. California-specific commitments;

2. intrastate regional commitments to the widely varying regions of California;

3. preservation of the Bank of America Community Development Bank;

4. charitable giving goals with set-asides for economic development and affordable housing;

5. a set-aside of part of the merger's cost savings for the unbanked either in cash or in stock options to be exercised by a community foundation;

6. targeting of the affordable housing goal credit to support units serving very low income consumers;

7. support for technical assistance to pre-bankable small businesses;

8. targeting of the small business loan goal credit to serve businesses seeking loans of $25,000 or less;

9. a fee freeze;

10. an EFT 99 product;

11. a commitment not to close branches in minority and low income communities; and

12. a target to lend to the low income population to match their percentage of the state's population; and to do so through the bank, not through subprime affiliates.

NationsBank and Bank of America have met twice with CRC on these issues since the merger was announced, and it appears likely that a written commitment may be made on some, but not all, of these issues.

In addition to the issues discussed above, the Texas Community Reinvestment Coalition seeks commitments which support the following needs of low income and minority Texans:

- providing down-payment assistance to loan applicants in underserved tracts with high minority concentration or high low income populations;
- establishing economic development and affordable housing goals in *colonias* regions of Texas;
- incorporating a "second-review" program with members from community groups and housing advocacy organizations into its mortgage decision process to ensure that loans in underserved areas have been fairly reviewed;
- making available to community groups reporting of small business and consumer loans by census tract in addition to HMDA reporting; and
- establishing monitoring meetings on a periodic basis with neighborhood groups in underserved census tracts statewide to ensure all affected communities are served.

4. The current level of performance in community lending casts doubt on the value of the $350 billion pledge.

In the banks' CRA announcement, several assertions are made regarding the leading role the merged bank will take in community lending and investment. Currently, NationsBank's and Bank of America's level of performance in some minority and low and moderate income communities raises concerns about the merged bank's ability to meet this ambitious pledge. In Texas, NationsBank loaned more than $455 million dollars in 1996 for single-family housing to white, black, and Hispanic borrowers. Yet, white borrowers disproportionately received 86% of the total amount loaned. (See table below). Regulators must address these gross disparities in lending, particularly in states like Texas where affordable housing stock exists in low income, high-minority and inner-city areas.

NationsBank $ Amount Loaned for Owner-Occupied Housing—1996

Race	$ Amount Loaned	Percentage
White	$391,176,000	86%
Hispanic	$ 45,582,000	10%
Black	$ 17,986,000	4%
Total	**$454,744,000**	100%

The announced commitment also suggests that future investment in minority and low and moderate income communities will grow as the financial resources of the merged bank increases. Since NationsBank and Bank of America are presently two of the largest financial institutions in the nation, their current level of performance in community lending should serve as a good indicator of the merged bank's potential to meet the credit needs of underserved communities. NationsBank is the largest bank by asset size in Texas ($60 billion). However, it is not the largest home mortgage lender among minority and low income communities. In addition, the most recent HMDA figures show Hispanic and African American applicants in Texas are two to three times as likely to be denied for a home loan by NationsBank than a white applicant. In Texas, Bank of America primarily targets low income and minority communities with manufactured housing loans, which are substantially more expensive than conventional home loans. If the merged bank is to lead the financial industry in community lending and investment as it asserts it will, current lending patterns of the merging banks warrant close scrutiny. In Texas, these patterns do not promote the revitalization of inner city communities.

5. Absence of targets to serve low and very low income consumers

The NationsBank announcement lacks targeting to ensure that a significant portion of the credit will serve low and very low income consumers. Instead, it generally lumps together low and moderate consumers and communities. Very low income consumers are the group that requires the most thought, outreach, and creativity to serve. A close reading of the NationsBank announcement reveals that it could satisfy the announced goal for housing by counting a variety of loans that won't go to low income or very low income consumers. The announcement permits the merged bank to count all of the following toward its housing goal:

1. all home loans to minority applicants in any neighborhood and of any income level;

2. all loans to buy or build properties in low and moderate income census tracts (apparently including gentrification projects not designed to be affordable to current neighborhood residents); and

3. and all single-family dwelling lending for housing in low to moderate income geographies regardless of the income of the borrower.

These are all appropriate and useful forms of credit. However, the $115 billion ten-year housing goal could be fully satisfied with these types of loans, without extending any credit to a low income single-family home buyer or to support the financing of multi-family units affordable to low income and very low income people.

In the San Francisco MSA, the 100% of median target in the bank's CRA pledge means that goal credit could support lending in apartments to serve families earning $61,300 per year. In Los Angeles the 100% of median standard means that the goal credit could be used to support loans for homes and apartments targeted to families earning $46,900 a year. Meanwhile, nonprofits producing affordable housing in California often are targeting people earning just a fraction of the area median income.

6. The broad small business credit category illustrates the weaknesses of a vague CRA goal

Dollar goals work for communities when they drive a financial institution to include in its business plan new products and services reaching out to unserved and underserved persons and communities. Without additional targeting, the CRA announcement will not serve that purpose. The small business loan category in the announcement illustrates the problem. Over half of all the funds, $180 billion, are designated for small-business loans. The announcement appears to leave to the merged bank broad discretion as to how the credit counted against goal may fall among several categories. The announcement permits up to half of the $180 billion to be made in loans from $100,000 to $1 million in size. These are unlikely to be the small businesses most in need of additional sources of credit. For this reason, the California Reinvestment Committee has suggested that the target loan size for this program should be $25,000 and under.

If the $180 billion in loans were made in credit-scored loans to borrowers in amounts of nearly $100,000, the pledge might not do much to increase the pool of credit available to small businesses in this country. On the other hand, the goal could be very meaningful if it were targeted for loans to pre-banked business, for loans to businesses graduating from government guaranteed loans or micro-loans to traditional bank credit, or for loans to businesses graduating into bank credit from the shoestring-plus-personal-credit method of finance used by many small businesses in their early years.

It has become common to count all small-business loans toward large CRA dollar goals without distinguishing between two very different types of loans: first, loans to small businesses that receive a widely available credit-scored product and second, loans to newer small businesses, businesses located in low income communities that commit to hire local residents, and businesses that have limited access to credit. In the home mortgage area, banks and regulators have recognized the special value of extending credit to persons not already served by the system. This has been manifested in the development of underwriting, products, and outreach for first-time home buyers. It may be time for any small business CRA commitment to begin to focus on "first-time business borrower" programs.

7. No promises of charitable support for affordable housing and community economic development

The announcement is silent on any commitment for charitable giving. Other major institutions operating in California have committed a percentage of net profit to charitable contributions, and have specifically targeted a significant portion of those contributions for affordable housing and economic development. For example, Washington Mutual has committed at least two percent of its pretax earnings to charitable giving, with a share for California proportional to the size of its deposit base, assets, and number of employees and branches in the state. Washington Mutual has promised that 70 percent of the California share will go to underserved communities and three-quarters of that will be in the form of cash or below market rate loans. One half of the California contribution is to be targeted for activities that promote housing and economic development. (Letter of May 22, 1998 from Kerry L. Killenger, Washington Mutual, to Alan Fisher, California Reinvestment Committee.) Whether or not grant-making practices fall within the CRA, a bank that uses grant programs to build a nonprofit infrastructure can make a long-term difference in the quality of life in low income communities. An overall dollar goal for charitable contributions and a set-aside for affordable housing and community development economic development are an essential part of effective community building.

8. The future of the Community Development Bank is not discussed

NationsBank's CRA announcement does not reveal the fate of the Bank of America Community Development Bank. The Community Development Bank has been important to California's low income community. It has developed new credit products needed by nonprofits serving the community. It has supported and enhanced the nonprofit community. It has used existing government guaranteed loan programs to expand the group of people receiving credit. These philosophies work in the diverse California market. The Community Development Bank works with and supports nonprofits as they design housing and services for the low income public. The Community Development Bank has played an important role not only in meeting existing demand for credit, but in working to develop new products and bring along newer nonprofits – those that aren't among the most established and well-known in their markets. These philosophies must be retained.

D. NationsBank's and Bank of America's CRA records in Texas illustrate the need for detailed, specific, localized CRA commitments

NationsBank and Bank of America have been inconsistent in their CRA lending to low income and minority communities in Texas. While NationsBanc Mortgage performed well in some lower income and minority census tracts in Dallas, their market presence in underserved communities in other Texas MSAs was weak. Although agreements between NationsBank and some community groups exist, the bank has not lived up to the spirit of these agreements in some cases. In Austin, for example, NationsBank entered into a local agreement to increase lending and investment in traditionally African American neighborhoods. While a few home loans have been made to African American borrowers, most of these loans were not made in the inner city census tracts where older, traditionally African American neighborhoods are located. This lending pattern does not promote revitalization of older communities and leaves these communities without the resources to rebuild and create a sound financial base for community development.

While Bank of America's CRA efforts in California have led to innovative lending and investment products, that bank has failed to implement these products for underserved communities in Texas. Instead, the most recent HMDA data shows Bank of America disproportionately targets Texas low income and minority communities with manufactured housing loans. The lack of access to conventional home loans harms low income and minority consumers by restricting their choices of home loan products to fewer, more expensive options, such as manufactured housing, and curbs their opportunity for homeownership and community development. In light of Bank of America's recent decision to sell its manufactured housing unit, we would urge the merged bank to offer and market all products – including conventional home loans – that promote homeownership and stable banking relationships.

The unevenness of NationsBank's and Bank of America's lending performance in Texas underscores the need for local commitments. As each local economy transforms in response to changes in the financial industry, the approaches of lenders to meet local credit needs must also change. The merged bank must be structurally flexible yet philosophically consistent in addressing these credit needs, or disparate lending patterns will continue.

1. NationsBank's record of branch openings in Texas shows that special care should be taken to ensure that branch closings do not harm low income communities.

If the merged bank closes branches for any reason, low and moderate income areas in particular should be protected from such closures.

Historical Branch Openings and Closings

An examination of NationsBank's record of branch openings and closings in detail in one state, Texas, illustrates the need for the regulators to place conditions on any merger approval that will protect low and moderate income communities from further branch closures. NationsBank's Texas record shows that it appears to target new branches in upper income rather than in low or moderate income areas. In 1996, NationsBank opened nearly as many branches in upper income areas in Texas as in middle, moderate, and low income areas combined. NationsBank opened 28 branches in upper-income areas, 18 in middle income areas, and eight and three in moderate and low income areas, respectively, as the table below illustrates.

NationsBank Branch Openings – 1996

Total	Full Service	Drive-Up	In-Store	In-Store Express
Upper Income (total 28)	12	1	12	3
Middle Income (total 18)	5	2	9	2
Moderate Income (7) Unidentified type (1) (total 8)	6	0	1	0
Low Income (2) Unidentified type (1) (total 3)	2	0	0	0

Despite more branch closings in upper income areas, the net branch openings in 1996 in upper and middle income areas totaled 40, while net branch openings in low and moderate income areas totaled only ten.

NationsBank Branch Closings – 1996

Total	Full Service	Drive-Up	In-Store	In-Store Express
Upper Income	5	n/a	n/a	n/a
Middle Income	1	n/a	n/a	n/a
Moderate Income	1	n/a	n/a	n/a
Low Income	n/a	n/a	n/a	n/a

2. Low and Moderate income Communities Already Suffer From a Lack of Bank Branches

Texas was hit hard by the bank failures in the 1980s – 40 percent of all bank failures nationwide during the 1980s occurred in Texas. (Kenneth J. Robinson, *The Performance of Eleventh District Financial Institutions in the 1980's: A Broader Perspective, Federal Reserve Bank of Dallas Financial Industry Study*, May 1990, pp. 13-24.) Low income neighborhoods were disproportionately affected by bank closures.

A study from Texas A&M on the availability of banking facilities between 1985 and 1993 found that low income areas, high poverty areas, and high minority areas all experienced a decline in the availability of bank branches during this time span. Specifically, the study revealed that the average number of branches for zip codes in the highest income quartile stayed roughly the same while zip codes in the lowest income quartile experienced a decline of 11 percent. For below poverty zip codes, this decline was an even more dramatic – 13 percent. In addition, while predominately white zip codes actually saw their number of branches increase by four percent, minority zip codes saw theirs decline by ten percent.

(Leonard Bierman, Donald R. Fraser, Javier Gimeno, and Lucio Fuentelsaz, *Regulatory Change and the Availability of Banking Facilities in Low income Areas: A Texas Empirical Study*, SMU Law Review (Volume 49, No. 5, July-August 1996), pp. 1438-1439.)

As mainstream financial institutions such as banks have failed to fully serve low income communities, higher-cost non-bank institutions have grown substantially. In Texas the number of regulated lenders in Texas (non-bank lenders, largely finance companies) increased 42 percent between 1992 and 1996. Along with this growth, the volume of loans – the total dollar amount loaned in a calendar year – increased by almost 50 percent between 1992 and 1995. Pawn lenders also experienced substantial growth. (Office of Consumer Credit Commission, Texas, *Regulated Loan Licenses and Pawnshop Licenses*, March 12, 1997).

The growth in the high-priced, non-bank sector is a nationwide trend. A 1997 report by the Consumer Federation of America found that there were 5,400 checking outlets – more than double the 2,151 existing in 1986. Such businesses cash 150 million checks annually, with a face value of $45 billion. These services can be an expensive way to conduct routine financial services – Consumers Union's West Coast Regional Office has estimated that cashing paychecks and buying money orders for a family with $15,000 in annual income would cost about $330 a year in California. A study by Consumers Union's Southwest Regional Office found a similar family could spend between $150 to $370 annually in Texas just to cash their paychecks.

The development of high-priced, non-bank deposit services does not affect all groups in our society equally. According to the Survey of Consumer Finances, more than half of families without checking accounts are nonwhite or Hispanic, and 85 percent have less than $25,000 in annual income. The vitality of the "alternative" high-priced non-bank sector strongly suggests that banks have done a poor job of serving the entire community. To begin to reverse these trends, NationsBank and Bank of America should be required to keep branches in low and moderate income areas open after the merger. Where divestiture is required, it should not include the closure or sale of branches in low and moderate income areas. Further, the merged bank should adopt a business plan to develop an account that effectively competes with the check cashers for the business of lower income consumers.

The NationsBank merger application refers to a confidential exhibit B which apparently contains a list of the branches that have been identified for closure as a result NationsBank's acquisition of Barnett. This list should be made public now, so that those communities which will be affected by the most recent NationsBank merger may participate in the comment process on this merger. Making this information public at this time also will permit those communities likely to the affected by NationsBank's future branch siting and closure decisions to evaluate the likelihood of future harm in their communities from NationsBank's process for determining which branches to retain.

E. Consumer protection

Given consumer concerns about the impact mergers could have on fees, quality of service, and market power, the Federal Reserve Board should take strong action to assure that the public interest is served by the merger between Bank of America and NationsBank, and that the convenience and needs of consumers are met, as required under Section 3(c)(1)(B) Bank Holding Company Act. Thus, in addition to meeting the needs of consumers and communities, as discussed elsewhere in these comments, the Board should ensure that, in the consideration of the merger application, the merged entity should provide affordable bank services to low and moderate income consumers through low-cost basic banking, and that all consumers are protected from abusive and deceptive sales practices. Specifically, the Board should ensure that the merged entity provides:

1. Affordable banking services

The new entity should have targets to lower or freeze fees and should require the bank to provide low-cost checking to all its customers throughout the country.

Millions of Americans, looking for a place to safely deposit their hard-earned dollars and a means to pay their bills, get hit every month with checking account fees they cannot avoid. Those fees are going up as banks have increased checking account charges unless high minimum balances are met – balances that are out of reach for many American families.

Many consumers cannot sustain the high minimum deposits required to avoid monthly charges. Low cost basic banking accounts, with reasonable service fees and low or no minimum initial deposit or balance requirements, are needed to lessen the financial burden on low and moderate income consumers. These accounts should be actively marketed. *Making a commitment to low-cost basic banking as part of a merger application is consistent* with the intent of Congress when it required the Board to consider the effect of a bank merger on the public interest, and in meeting the needs and convenience of the communities where the bank is located.

In addressing the merger, the Board should ensure that the new entity is committed to meeting the needs of the lower and moderate income consumers by offering low-cost basic banking. To the extent such accounts may be offered today, the Board should ensure that the bank makes consumers aware of that option, and ensure that such low-cost accounts are preserved.

2. Protections against abusive and deceptive sales practices

To help ensure consumers derive some benefit from the merger other than simply the convenience of having more branches for those who travel, the merged entity should be required to comply with a package of consumer protections, including:

- **Measures to protect against confusion over products**: The merged entity should not be able to use taxpayer protections to mislead or confuse customers about the products sold. This means clear disclosures about whether the products are FDIC-insured or subject to risk of loss of the principal before any solicitations involving non-insured products are made. It also means clear and separate delineation of insured from non-insured activities, e.g., separate sales areas in any bank branch, prohibition against the use of names of subsidiaries that are substantially similar to that of the bank, and compensation structures that limit the potential for high-pressure sales tactics or unsuitable sales.

- **Privacy protections**: Consumers should be given the option to consent in writing before the new entity is permitted to share information about customers internally or with affiliates.

- **Suitability standards**: Studies and surveys indicate that some banks recommend products that do not meet the consumer's financial needs, or are unsuitable, often placing the consumer at risk of losing their savings. To protect against this, sales of products should be subject to suitability standards.

- **Protections against high pressure sales tactics**: Consumers obtaining loans should not be subject to unsolicited sales pitches for other products until after the loan has been made.

- **Redress mechanism for people to recover losses**: Most importantly, the new entity must agree, even if not mandated under current law, to compensate consumers for any losses that are due to violations of these protections.

3. Cost savings to be passed on to consumers

There has been a lack of strong evidence to justify the escalating bank fees and increasing number of charges for various services, particularly at a time when bank profits have reached record levels. There has been much discussion about synergies and efficiencies that will benefit consumers – we ask that the Board make sure that consumers actually benefit by requiring that a share of the cost savings be passed on to consumers through lower fees or at least a moratorium on increasing fees, and through programs to bring in the unbanked.

4. Compliance with laws

There is a growing trend, aided by bank regulators, to permit banks to ignore state consumer laws in states other than their home state. States have traditionally had authority over businesses that operate within their borders. The Board should make compliance with state consumer law in all the states in which the merged bank does business a condition of the merger.

5. Compliance with anti-trust laws

The Board is obligated to carefully consider the anti-competitive affects of the merger. Consumers may be substantially harmed by concentration of market power. It is vital that consumers be protected, and these effects be fully considered.

Conclusion

This merger will have deep impacts on consumers and communities throughout the U.S. In order to have a chance of meeting the convenience and needs of the whole community, this proposed merger must be structured to benefit, not harm, consumers at every income level. Both banks should work closely now, as well as in the future, with state and local CRA coalitions, community groups, and nonprofit service providers to build state and regional plans and programs that will make the merged bank's CRA program a strong tool to extend credit and deposit services beyond those now served by the banking system. In addition, the applicants should put into place, or the regulators should require that they do so, specific guarantees and commitments addressing issues including fees, consumer protections, and dedication of part of the cost savings to bring the unbanked into the banking system.

Sincerely,

Gail Hillebrand
West Coast Regional Office

Frank Torres
Washington Office

Angelyque Campbell
Southwest Regional Office

cc: Office of Comptroller of the Currency
Antitrust Division, Department of Justice
Mr. Hugh McColl
Mr. David Coulter
Secretary to the Board/Board of Governors of the Federal Reserve System
Mr. Mullane - NationsBank
Ms. Bessant - NationsBank

NATIONAL BLACK CHAMBER OF COMMERCE

Leslie Abrams
will read the statement.
7/9/98

Panel 2

NATIONAL BLACK CHAMBER OF COMMERCE NOT CONVINCED ABOUT NATIONS/BANK OF AMERICA MERGER

African Americans, as well as all other minorities, have yet to attain their fair share of the American economic enterprise. One thing is quite certain. Power will concede nothing without a demand and we cannot expect progress without certain standards and criteria being established.

Nations Bank wants to throw out a big number with no mechanisms in place to set the pace, monitor compliance and ascertain what is good performance and fine corporate responsibility. Thus, it is certain that the minority communities who are presently served by Bank of America will digress in real community reinvestment.

Nations Bank should also answer for the serious amount of discrimination complaints from its workforce. The lawsuit filed by Nations Bank against the Office of Federal Contract Compliance Programs (Department of Labor) to prevent an audit to investigate this mass of discrimination complaints is shocking. Attorney General Janet Reno has also issued warnings to Nations about its performance in equal opportunity hiring.

Without proper "checks and balances" there is no assurance that the performance previously displayed by Bank of America will endure and will most likely not improve.

Harry C. Alford

HARRY C. ALFORD
President & CEO

DAHC DURHAM AFFORDABLE HOUSING COALITION

Panel 10

Comments of
Peter Skillern
Executive Director
Durham Affordable Housing Coalition
NationsBank/Bank of America Merger Hearing July 9, 1998

The Charlotte Observer, Charlotte, North Carolina, January 10, 1993 -- " NationsBank Says It'll Try to Clear Up Any Problems" referring to consumer lawsuits pending against Chrysler First for predatory lending practices. Community activists were concerned, protesting that the acquisition of Chrysler First by NationsBank would not necessarily stop the abusive loan practices. But regulators approved the acquisition agreeing with NationsBank's general counsel that the Federal Reserve needed to consider the lending practices of NationsBank, not Chrysler First. NationsBank stated it "will follow sound lending policies and practices in full compliance with all applicable laws and regulations…."

Five years later, the continued questionable lending practices of Chrysler First – now NationsCredit – and other NationsBank subsidiaries still haunt banking watch-dog groups and hurt some of our nation's most vulnerable neighborhoods.

I submit to you a letter from Carlene McNolty, Attorney for the North Carolina Justice and Community Development Center, who has reviewed a 1996 loan by NationsCredit to Audrey and Kenneth Snipes. She found several violations. NationsCredit failed to disclose loan terms, including that it was an adjustable rate mortgage. It packed the loan with fees, including over $5,000 in settlement fees for a $110,000 loan, and thus charged usury rates under North Carolina law. NationsCredit then flipped the loan by increasing the adjustable rate by two points within the first year and then offering the Snipes to refinance for a fixed rate. The Snipes were told that if they refinanced with another lender they would face several thousand dollars in prepayment penalties.

I introduce into the record the case of Beatrice M. Smith, who is currently in litigation with NationsBank over predatory lending practices by NationsCredit. Ms. Smith claims the loan terms were not fully disclosed, the loan was packed with high fees including life credit insurance, and that the loan was flipped six times in six years starting with Chrysler First and ending with NationsCredit. Ms. Smith is now fighting foreclosure by NationsCredit after rejecting an offer to stop a media story on the issue in exchange for having her loans forgiven.

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I introduce into the record the concerns of a resident from Morrisville, North Carolina, who feels that she has been taken advantage of by NationsCredit and that she is now being harassed so her equity rich land might be taken.

In his protest of this merger, Matthew Lee of Inner City Press/Community on the Move makes a convincing analysis of HMDA data that Equicredit, a subprime lender recently obtained by NationsBank through the Barnett Bank merger, has a disproportionate share of loans to African Americans as compared to white borrowers. This market share to African Americans is in stark contrast to the lending practices of NationsBank and Nations Mortgage, which is predominately to whites. Mr. Lee raises the concern that Equicredit targets minorities for its higher interest rate, higher fee loans. NationsBank is now responsible for Equicredit and we wonder how these two markets will be served by these institutions.

These complaints look very much like the complaints filed against Chrysler First lending practices. The Durham Affordable Housing Coalition believes those community activists were right to be concerned regarding NationsBank's acquisition of Chrysler First. The Federal Reserve did little to address these concerns then. What will the federal regulators do to address these lending practices now? We request that the Federal Reserve investigate NationsCredit lending practices and place conditions on the merger to insure that these practices are ended and not expanded throughout the country.

NationsBank is a big player in the sub-prime lending market

Chrysler First became NationsCredit, a new division of NationsBank. It has grown tremendously with the acquisition of Equicredit, a subsidiary of Barnett Bank, with assets of more than $30 billion. In addition to being the owner of the largest sub-prime lenders in the country, NationsBank also plays an important role in financing other parallel banking institutions including check cashing companies and other finance corporations.

According to the Security Exchange Commission, NationsBank was a primary lender of Southland Associate, Commercial Credit Loans, Morequity Inc., and American General Finance among others.

NationsBank won the dubious honor of being in the Mother Jones Hall of Shame for participating in setting up a $125 million line of credit for Cash America (July/August 1994 issue). Cash America is the nation's largest pawn chain. Cash America charges an annual interest rate that averages 200 percent and targets those without bank accounts.

The size of NationsBank before the merger makes it an important and dominant player in setting industry practices for subprime lending and parallel banking institutions. The responsibility of NationsBank to set a positive industry standard is large given its role in the market and the claims of social responsibility made by its leaders.

I am not yet impressed by Ken Lewis' pledge to run NationsCredit right or not at all. Surely it has not taken five years since acquiring Chrysler First to come to the conclusion that changes need to be made. A similar promise was made in addressing Chrysler First's lending practices.

What the bank proposes to do to become a progressive industry leader in this area is not addressed by its community reinvestment pledge released in May 1998. It is completely silent on the role that NationsCredit plays now and will play in the future. It is completely silent on its role as a financier of other finance companies to influence their practices.

The Durham Affordable Housing Coalition appreciates NationsBank's offer to include the Community Reinvestment Association of North Carolina in discussions on how it will address these subprime lenders' practices in coming up with win/win solutions. Results, as well as process, are important to address these concerns. We again ask the Federal Reserve to place a condition on the merger that provides an enforcement role in examining NationsCredit lending practices.

The Durham Affordable Housing Coalition applauds the many fine things that NationsBank has done in Durham and North Carolina. For example, the Coalition receives funding from NationsBank for our counseling and homeownership marketing campaign. The testimony of others and the record will show that NationsBank has done many good things. But as long as NationsBank continues to operate NationsCredit in an unethical and illegal manner, charity on one hand can not excuse these predatory lending practices on the other.

The Durham Affordable Housing Coalitions offers the following recommendations for improvements by NationsBank's management of NationsCredit.

1) Have NationsCredit offer A credit products as well as B and C products. Begin to see NationsCredit as a tool for community development that provides a range of appropriate – not harmful -- loan products and financial services.
2) Change the pay and incentive plan of NationsCredit front line personnel so that fees and commissions are not the primary incentive in delivering products. Limit the fees paid to brokers for referrals.
3) Develop a standard pricing system for risk that provides a range of price over the continuum of risk. Recognize the value of the real estate collateral of the loan in pricing.
4) Develop a loan review process to ensure that the loans are soundly, fairly and legally underwritten.
5) Contract for self-testing for fair housing as well as consumer protection violations.
6) Require subprime companies that are financed by NationsBank to meet similar industry standards. Do not buy subprime loans that are predatory in nature as a secondary market.
7) Provide leadership in calling for legislative and regulatory reforms that will provide greater protection to consumers. This is needed to create a level playing field for NationsCredit in competing with other subprime lenders.
8) Have Hugh McCall demonstrate his commitment and leadership to cleaning up the practices and image of NationsCredit.
9) Provide HMDA data for NationsCredit as a separate lender for the public to better analyze its overall lending practices and address concerns of targeting minorities
10) Make a good faith effort to review loans and make whole those who have been harmed by illegal loan practices.