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FEDERAL RESERVE SYSTEM

PacWest Bancorp
Los Angeles, California

CapGen Capital Group II LP
New York, New York

CapGen Capital Group II LLC
New York, New York

Order Approving the Acquisition of an Industrial Bank
and Nonbanking Subsidiaries

PacWest Bancorp ("PacWest"), Los Angeles, California, a bank holding company within the meaning of the Bank Holding Company Act ("BHC Act"), and its controlling shareholders, CapGen Capital Group II LP ("CapGen LP") and CapGen Capital Group II LLC ("CapGen LLC," and collectively with PacWest and CapGen LP, "Notificants"), both of New York, New York,[1] have requested the Board's approval under sections 4(c)(8) and 4(j) of the BHC Act and section 225.24 of the Board's Regulation Y[2] to acquire CapitalSource Inc. ("CapitalSource") and thereby indirectly acquire its subsidiary industrial bank, CapitalSource Bank ("CSB"), both of Los Angeles. Immediately following the proposed acquisition, CSB would be merged into PacWest's

[1] CapGen LP and CapGen LLC are bank holding companies under the BHC Act because they control PacWest. The only activity of CapGen LP is to own shares of PacWest common stock. CapGen LLC is the sole general partner of CapGen LP.

[2] 12 U.S.C. §§ 1843(c)(8) and (j); 12 CFR 225.24.

subsidiary bank, Pacific Western Bank ("PWB"), Los Angeles.[3] In addition, Notificants have requested approval to acquire other nonbanking subsidiaries of CapitalSource and thereby engage in extending credit and servicing loans in accordance with section 225.28(b)(1) of the Board's Regulation Y[4] and in leasing personal property in accordance with section 225.28(b)(3) of the Board's Regulation Y.[5]

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published in the Federal Register (78 Fed. Reg. 54,648 (Sept. 5, 2013)). The time for filing comments has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 4 of the BHC Act.

PacWest, with total consolidated assets of approximately $6.5 billion, is the 144th largest depository organization in the United States, controlling approximately $5.4 billion in consolidated deposits, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the United States.[6] PWB operates branches only in California. PWB is the 20th largest depository institution in California, controlling deposits of $5.6 billion, which represent less than 1 percent of the total deposits of insured depository

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[3] The merger of CSB into PWB is subject to the approval of the Federal Deposit Insurance Corporation ("FDIC") under the Federal Deposit Insurance Act. The FDIC approved the merger on March 6, 2014.

[4] 12 CFR 225.28(b)(1).

[5] 12 CFR 225.28(b)(3).

[6] Asset and nationwide deposit ranking data are as of December 31, 2013. In general, Board orders on banking applications and notifications define insured depository institutions to include commercial banks, savings banks, and savings associations for the purposes of asset and deposit ranking data. See, e.g., Investors Bancorp, MHC, FRB Order No. 2013-16 at 2 (December 23, 2013). In this case, because CSB is an industrial bank, in this context, insured depository institutions also include industrial banks and industrial loan companies.

institutions in that state.[7] PWB also engages in asset-based lending in various states in the western United States and in equipment leasing nationwide.

CapitalSource, with total consolidated assets of approximately $8.9 billion, controls CSB, its only insured depository institution. As an industrial bank, CSB does not accept demand deposits. Rather, CSB offers a limited set of deposit products through retail branches in southern and central California. CSB also operates loan origination offices throughout the country and engages primarily in commercial lending. In addition to owning CSB, CapitalSource also engages in a limited amount of commercial lending and equipment leasing through nonbank subsidiaries.[8]

On consummation of the proposal, PacWest would become the 81st largest depository organization in the United States, with total consolidated assets of approximately $15.4 billion, which represent less than 1 percent of the total amount of assets of insured depository institutions in the United States. PacWest would control total consolidated deposits of approximately $11.6 billion. In California, PacWest would become the 14th largest depository organization, controlling deposits of approximately $11.6 billion, which represent 1.14 percent of the total deposits of insured depository institutions in that state.

Factors Governing Board Review of the Transaction

The Board previously has determined by regulation that the operation of an industrial bank by a bank holding company and other nonbanking activities for which PacWest has requested approval are closely related to banking

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[7] State deposit and asset data are as of June 30, 2013.

[8] Through nonbank subsidiaries, CapitalSource satisfies existing loan commitments made prior to the formation of CSB in 2008. Excluding loans held by CSB, CapitalSource had a total outstanding loan principal balance of approximately $141 million as of September 30, 2013.

for purposes of section 4(c)(8) of the BHC Act.[9] PacWest has committed that all the activities of CapitalSource and the other nonbanking subsidiaries of CapitalSource that it proposes to acquire engage in activities that will conform to those permissible under section 4 of the BHC Act and Regulation Y or be divested.[10]

Section 4(j)(2)(A) of the BHC Act requires the Board to consider whether the proposed acquisition of CapitalSource and its nonbanking subsidiaries "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, unsound banking practices, or risk to the stability of the United States banking or financial system."[11] As part of its evaluation of these factors, the Board reviews the financial and managerial resources of the companies involved, the effect of the proposal on competition in the relevant markets, the risk to the stability of the United States banking or financial system, and the public benefits of the proposal.[12] In acting on a notice to

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[9] 12 CFR 225.28(b)(1), (3), and (4).

[10] CapitalSource controls certain assets that are not permissible for a bank holding company to control under section 4 of the BHC Act and Regulation Y. CapitalSource acquired these assets in satisfaction of debts previously contracted. PacWest has committed that it will divest all such assets not later than two years from the date that the proposed transaction is consummated, consistent with section 4(c)(2) of the BHC Act. 12 U.S.C. § 1843(c)(2).

[11] 12 U.S.C. § 1843(j)(2)(A). Section 604(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. No. 111-203, 124 Stat. 1601 (2010) ("Dodd-Frank Act"), added the "risk to the stability of the United States banking or financial system" to the list of possible adverse effects.

[12] See 12 CFR 225.26; see, e.g., Capital One Financial Corporation, FRB Order 2012-2 (February 14, 2012) ("Capital One Order"); Bank of America Corporation/Countrywide, 94 Federal Reserve Bulletin C81 (2008) ("Bank of

acquire an industrial bank, the Board reviews the records of performance of the relevant insured depository institutions under the Community Reinvestment Act ("CRA").[13]

Competitive Considerations

As part of the Board's consideration of the factors under section 4 of the BHC Act, the Board has considered the competitive effects of Notificants' acquisition of CapitalSource and its nonbanking subsidiaries in light of all the facts of record. Notificants and CapitalSource both engage in commercial lending,[14] commercial real estate financing, and equipment leasing. The Board previously has determined that the geographic markets for commercial lending, commercial real estate financing, and equipment leasing are either regional or national in scope.[15] The record in this case indicates that there are numerous competitors that would continue to engage in these businesses on consummation. Further, the

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America Order"); Wachovia Corporation, 92 Federal Reserve Bulletin C138 (2006); BancOne Corporation, 83 Federal Reserve Bulletin 602 (1997).

[13] The Dodd-Frank Act amended section 4 of the BHC Act to provide that, in general, the Board may not approve an application by a bank holding company to acquire an insured depository institution if the home state of the target insured depository institution is a state other than the home state of the bank holding company and the applicant controls, or would control, more than 10 percent of the total amount of deposits of insured depository institutions in the United States. Dodd-Frank Act § 623(b), codified at 12 U.S.C. § 1843(i)(8). For purposes of the BHC Act, the home state of Notificants and CSB is California and, therefore, section 4(i)(8) of the BHC Act does not apply to this transaction. Also, as noted, consummation of the proposal would result in Notificants controlling less than 1 percent of the deposits of U.S. insured depository institutions.

[14] Notificants engage in commercial lending to businesses of various sizes. CapitalSource engages in commercial lending primarily to medium and large businesses.

[15] See, e.g., M&T Bank Corporation, 89 Federal Reserve Bulletin 222 (2003) (commercial real estate lending and equipment leasing); Deutsche Bank AG, 85 Federal Reserve Bulletin 509 (1999) (commercial lending); and NationsBank Corporation, 84 Federal Reserve Bulletin 858 (1998) (commercial lending).

markets for these services would remain unconcentrated, and Notificants' and CapitalSource's levels of participation are relatively small.

In addition, Notificants and CapitalSource both engage in community development activities. The Board previously has determined that the geographic market for community development activities is local in scope.[16] The market for community development activities is unconcentrated, and there are numerous market participants who engage in these activities.

The Department of Justice has conducted a review of the potential competitive effects of the proposal and has advised the Board that consummation of the transaction would not be likely to have a significantly adverse effect on competition in any relevant market. In addition, the appropriate banking agencies have been afforded an opportunity to comment and have not objected to the proposal.

Based on all the facts of record, the Board concludes that consummation of the proposed transaction would not have a significantly adverse effect on competition or on the concentration of resources in any relevant market. Accordingly, the Board has determined that competitive considerations weigh in favor of approval.

Financial and Managerial Resources

The Board considered the financial and managerial resources of the organizations involved on both a parent-only and consolidated basis, as well as the financial condition of the subsidiary depository institutions and the organizations' significant nonbanking operations. In this evaluation, the Board considers a variety of information, including capital adequacy, asset quality, and earnings performance. The Board evaluates the financial condition of the combined

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[16] See, e.g., Bank of Montreal (order dated June 20, 2011), 97 Federal Reserve Bulletin 24 (3rd Quar. 2011).

organization at consummation, including its capital position, asset quality, liquidity, and earnings prospects, and the impact of the proposed funding of the transaction. The Board also considers the ability of the organization to absorb the costs of the proposal and the proposed integration of the operations of the institutions. In assessing financial factors, the Board consistently has considered capital adequacy to be especially important.

The Board has considered the financial factors of the proposal. Notificants are well capitalized and would remain so on consummation of the proposal. PWB and CSB are also well capitalized and would remain so after consummation. The proposed transaction is structured as a cash and share exchange, and the total consideration for the transaction would be approximately $2.3 billion. Notificants are in satisfactory condition, and the asset quality, earnings, and liquidity of PWB and CSB weigh in favor of approval. Based on its review of the record, the Board finds that the organizations have sufficient financial resources to effect the proposal.

The Board also has considered the managerial resources of the organizations involved and the proposed combined organization. The Board has reviewed the examination records of Notificants, PWB, CapitalSource, and CSB, including assessments of their management expertise, internal controls, risk-management systems, and operations. In addition, the Board has considered its supervisory experiences and those of other relevant bank supervisory agencies with the organizations and their records of compliance with applicable banking laws and with anti-money-laundering laws.

PacWest and PWB are considered to be well managed. PacWest's existing risk-management program and its directorate and senior management weigh in favor of approval. The directors and senior executive officers of PacWest have substantial knowledge of, and experience in, the banking and financial services sectors. PacWest has a demonstrated record of successfully integrating

organizations into its operations and risk-management systems following acquisitions. Since 2000, PacWest has acquired and successfully integrated into its operations more than 20 banking organizations.

The Board also has considered Notificants' plans for implementing the proposal. PacWest is devoting significant financial and other resources to address all aspects of the post-acquisition integration process for this proposal. PacWest would implement risk-management policies, procedures, and controls at the combined organization that include elements of existing policies of both PacWest and CapitalSource as well as certain new policies. In addition, PacWest's management has the experience and resources to ensure that the combined organization operates in a safe and sound manner, and PacWest plans to integrate CSB's existing management and personnel in a manner that augments PWB's management team.

PacWest's integration record, managerial and operational resources, and plans for operating the combined institutions after consummation provide a reasonable basis to conclude that managerial factors weigh in favor of approval. Based on all the facts of record, the Board has concluded that considerations relating to the financial and managerial resources and future prospects of the organizations involved in the proposal and PacWest's anti-money-laundering policies on balance weigh in favor of approval.

Record of Performance Under the CRA

The CRA requires the federal financial supervisory agencies to encourage insured depository institutions to help meet the credit needs of the local communities in which they operate, consistent with the institutions' safe and sound operation.[17] The CRA requires the appropriate federal financial supervisory agency to take into account a relevant depository institution's record of meeting

[17] 12 U.S.C. § 1842(c)(2); 12 U.S.C. § 2901 et seq.

the convenience and needs of its entire community, including low- and moderate-income ("LMI") neighborhoods, in evaluating bank expansionary proposals.[18]

The Board has considered all the facts of record, including reports of examination of the CRA performance records of PWB and CSB, information provided by PacWest, confidential supervisory information, and the public comments received on the proposal. The commenters objected to the proposal on the basis of PWB's CRA performance record.

A. Records of Performance Under the CRA

As provided in the CRA, the Board has evaluated the proposal in light of the examinations by the appropriate federal supervisors of the CRA performance records of the relevant insured depository institutions.[19] The CRA requires that the appropriate federal financial supervisory agency for a depository institution prepare a written evaluation of the institution's record of meeting the credit needs of its entire community, including LMI neighborhoods.[20] 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 supervisor.

CRA Performance of PWB

PWB was assigned a "satisfactory" rating at its most recent CRA performance evaluation by the FDIC, in October 2010 ("PWB Evaluation"). PWB was evaluated using the large bank examination procedures, which evaluate the institution's performance under the Lending, Investment, and Service Tests within

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[18] 12 U.S.C. § 2903.

[19] See Interagency Questions and Answers Regarding Community Reinvestment, 75 Fed. Reg. 11,642 at 11,665 (March 11, 2010).

[20] 12 U.S.C. § 2906.

the assessment areas it serves.[21] The PWB Evaluation covered the Los Angeles, San Diego, Riverside-San Bernardino East, Murrieta-Temecula, and San Francisco assessment areas.[22] PWB received "low satisfactory" ratings for the Lending, Investment, and Service Tests.[23]

As described in the PWB Evaluation, FDIC examiners found that the bank's overall volume of lending was good and reflected good responsiveness to its assessment areas' credit needs.[24] Examiners found that PWB's geographic distribution of loans was good, emphasizing that a substantial majority of its small business loan originations were made inside its assessment areas.[25] Examiners also determined that PWB exhibited an adequate record of serving the needs of the highly economically disadvantaged in its assessment areas. Further, examiners found that PWB made an adequate level of community development loans. However, the examiners also noted that PWB's distribution of borrowers reflected poor penetration among business customers of different revenue sizes and that PWB made limited use of innovative or flexible lending practices.

With respect to the Investment Test, examiners noted that PWB had an adequate level of qualified community development investments and grants, particularly those that are not routinely provided by private investors. Examiners

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[21] See 12 CFR 345.21(a)(1).

[22] Examiners conducted a full-scope review of the Los Angeles assessment area and a limited-scope review of the other assessment areas.

[23] The evaluation period for the Lending Test in the PWB Evaluation was January 1, 2009 to September 30, 2010, except for community development loans, for which the evaluation period was from December 15, 2008 through October 18, 2010. The evaluation period for the Investment and Service Tests was from December 15, 2008 through October 18, 2010.

[24] Small- and medium-sized business lending is the bank's primary lending focus.

[25] In this context, "small business loans" are loans with original amounts of $1 million or less that are secured by nonfarm, nonresidential properties or are commercial and industrial loans to borrowers in the United States.

also highlighted PWB's occasional use of innovative and/or complex investments to support community development initiatives, as well as the institution's adequate level of responsiveness to credit and economic development needs.

With respect to the Service Test, examiners noted that delivery systems were reasonably accessible to essentially all portions of the institution's assessment areas. Examiners also noted that PWB's opening and closing of branches had not adversely affected the accessibility of its delivery systems, particularly in LMI geographies and to LMI individuals. Further, examiners highlighted that PWB's services did not vary in a way that inconvenienced portions of its assessment areas and that the institution provided an adequate level of community development services.

CRA Performance of CSB

CSB was assigned an "outstanding" rating at its most recent CRA performance evaluation by the FDIC in June 2013 ("CSB Evaluation").[26] CSB was evaluated using the wholesale bank examination procedures, which evaluate an institution's community development performance based on community development lending, qualified investments, and community development services.[27] The CSB Evaluation covered the Los Angeles, Fresno, Kern, Tulare, and Kings assessment areas. Examiners highlighted CSB's high level of community development loans and excellent record of performance in meeting the credit needs of its assessment areas. Examiners noted that, during the evaluation period, CSB extended or purchased a total of 106 community development loans for $366.6 million. Further, examiners noted that the institution had a high level of qualified investments and donations and occasionally used innovative or complex qualified investments. During the evaluation period, CSB made 22 new qualified

[26] The evaluation period for the CSB Evaluation was July 1, 2010 to June 17, 2013.

[27] See 12 CFR 345.21(a)(2) and 345.25.

investments for $41.7 million, 368 qualified donations for $1.1 million, and maintained its investments in qualified mortgage-backed securities. Examiners also noted CSB's high level of community development services, including technical assistance offerings to, and service on boards of directors of, organizations committed to serving LMI communities. During the evaluation period, CSB contributed 6,613 qualified community service hours in its assessment areas, which represented an 85 percent increase from the prior evaluation.

PWB's Efforts Since the 2010 CRA Evaluation

PacWest represents that since the PWB Evaluation, PWB has extended 133 community development loans totaling $350.6 million. In addition, PacWest stated that the percentage of PWB's loans to small businesses with gross annual revenues of $1 million or less has increased from 27 percent to 35 percent since the PWB Evaluation. PacWest reported that PWB has added three Small Business Administration loan programs, including one program focused on small businesses owned by military veterans. Further, PacWest reported that PWB has made 431 charitable contributions totaling more than $1.1 million to community-based nonprofit organizations in its assessment areas since the PWB Evaluation. PacWest also noted that PWB executives, officers, and employees have provided approximately 8,700 community development service hours to various organizations throughout its assessment areas since the PWB Evaluation.[28]

B. Public Comments on the Application

Commenters expressed concerns about the proposed acquisition of CSB by PWB, in light of PWB's record of performance under the CRA. Specifically, commenters criticized PWB's "low satisfactory" ratings for the Lending, Service, and Investment tests in the PWB Evaluation. In addition,

[28] These loans, investments, contributions, and service hours have not yet been evaluated by the FDIC.

commenters asserted that PWB's small business lending is generally targeted to businesses with annual revenues of more than $1 million. Specifically, commenters asserted that, of PWB's small business loans, only 32 percent in 2012 and 35 percent in the first nine months of 2013 were made to businesses with less than $1 million in revenue, whereas CSB made 54 percent of its small business loans to such businesses in 2012. Commenters also contended that the penetration of PWB's branches in LMI neighborhoods is low. Specifically, commenters argued that only 21 percent of PWB's branches are in LMI neighborhoods, which commenters stated was lower than PWB's peers. Commenters also expressed concern that PWB would close certain branches of CSB in LMI neighborhoods following consummation of the proposal. Further, commenters criticized PWB's level of support for affordable housing development.[29]

In its evaluation of the proposal, the Board has considered that, although PWB received "low satisfactory" ratings for the Lending, Service, and Investment tests in the PWB Evaluation, the FDIC assigned PWB an overall "satisfactory" CRA rating. In addition, the Board has considered PWB's efforts since the PWB Evaluation. As noted above, PacWest represents that PWB has provided loans, investments, contributions, and service hours to meet the credit needs of its communities since the PWB Evaluation. PacWest reports that PWB originated $88.5 million and $155 million in community development loans in 2012 and 2013, respectively, compared to $24 million in 2009. Further, PacWest

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[29] Commenters also expressed concern that PWB would not meet the credit needs of certain rural communities currently served by CSB. The CRA requires a bank to meet the credit needs of the communities in which it operates. 12 CFR part 228. PacWest has represented that it plans to meet the credit needs of the borrowers in the rural communities served by CSB and that PWB has hired a new community development officer whose responsibilities will include the rural communities cited by commenters. The FDIC will review PWB's record of meeting the credit needs of the rural communities currently served by CSB in the course of conducting CRA performance evaluations.

reports that PWB has more than doubled the dollar volume of qualified equity investments and charitable contributions since the PWB Evaluation. The Board's analysis of the CRA-related activities reported by PWB—including $57 million of qualified equity investments, $1.1 million of charitable contributions, and approximately 8,700 community development service hours—indicates that PWB has demonstrated continued commitment to meeting the credit needs of the communities it serves.

PWB made 1,109 small business loans in 2012, of which 32 percent were made to businesses with less than $1 million in revenue. In comparison, within PWB's CRA assessment areas, lenders in the aggregate made 47 percent of their small business loans in 2012 to businesses with less than $1 million in revenue. Importantly, focusing only on LMI census tracts in PWB's assessment areas, PWB made 26 percent of its small business loans to businesses with less than $1 million in revenue, compared to 23 percent for lenders in the aggregate. Further, as noted above, based on data reported by PacWest, PWB has increased the percentage of loans to small businesses with gross annual revenues of $1 million or less in its assessment areas to 37 percent as of December 31, 2013.

Commenters expressed concern about the number of branches operated by PWB in LMI areas. Twenty-one percent of PWB's branches are located in LMI census tracts. In 2010, the FDIC concluded in the PWB Evaluation that PWB's delivery systems were reasonably accessible to essentially all portions of PWB's assessment areas. PWB's branch penetration in LMI census tracts has not changed materially since the FDIC determined that PWB's delivery systems were reasonably accessible. Since 2010, PWB has added two branches in low-income census tracts. Although PWB has reduced its presence in moderate-income census tracts by five branches since 2010, the overall decline of three LMI branches was less than PWB's reduction of seven branches in non-LMI census tracts.

On December 13, 2013, PWB provided notice to the FDIC and the California Department of Business Oversight that it intends to close 12 branches of CSB and one branch of PWB upon consummation of the proposal. Federal law requires an insured depository institution to provide notice to the public and to the appropriate federal banking agency before closing a branch.[30] The commenters have been afforded the opportunity to address planned branch closures in the context of the branch closings notice. The Board has reviewed PWB's branch closing policy in connection with this notice and notes that the FDIC will continue to review PWB's branch closing record in the course of conducting CRA performance evaluations.

The Board has verified that two of the CSB branches that PWB proposes to close are located in LMI communities. One such branch is approximately 250 feet from an existing PWB branch. The other CSB branch to be closed in an LMI area is approximately 5.5 miles away from the nearest PWB branch. In both cases, the PWB branch would offer certain services not offered by the CSB branch, such as demand deposit accounts and an automated teller machine. In addition, there are six other full-service branches of other banks within a one-mile radius of the CSB branch.

The Board has considered PWB's record of support for affordable housing development. In the PWB Evaluation, the FDIC noted that PWB had made approximately $17.6 million in affordable-housing-related loans between January 2009 and October 2010. As noted above, the FDIC concluded in the

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[30] Section 42 of the Federal Deposit Insurance Act (12 U.S.C. § 1831r-1), as implemented by the Joint Policy Statement Regarding Branch Closings (64 Fed. Reg. 34,844 (June 29, 1999)), requires that a bank provide the public with at least 30 days' notice, and the appropriate federal banking agency with at least 90 days' notice, before the date of a proposed branch closing. The bank also is required to provide reasons and other supporting data for the closure, consistent with the institution's written policy for branch closings.

PWB Evaluation that PWB's community development lending was adequate. PacWest reported that, between November 2010 and December 2013, PWB made at least eight loans totaling $20.5 million for affordable housing projects and an $11 million loan to a community enhancement corporation, a portion of which will be used to provide affordable housing to LMI individuals and families. Further, PacWest reported that it has invested at least $56.7 million in qualified investments, a portion of which is related to affordable housing, since the PWB Evaluation. The Board's analysis of PWB's support for affordable housing, as well as other lending, investments, and services, indicates that PWB has made continued efforts to meet the credit needs of the communities it serves.

The Board has consulted with the FDIC, PWB's primary federal regulator, regarding its evaluation of the bank's performance under the CRA and other commenter concerns. Following its review of the issues raised by the public comments, the FDIC concluded that there was no basis for denying the merger of CSB into PWB and has approved the merger under the Federal Deposit Insurance Act.

C. Conclusion on CRA Performance

The Board has considered all the facts of record, including the CRA performance records of the institutions involved, information provided by PacWest, comments received on the proposal and responses to those comments,[31]

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[31] Some commenters also questioned PWB's efforts in awarding contracts to minority- and women-owned businesses. Although the Board fully supports programs designed to promote equal opportunity and economic opportunities for all members of society, the comments about supplier diversity practices are beyond the factors the Board is authorized to consider under the BHC Act. See, e.g., Bank of America Order at C90.

Some commenters also criticized PWB's charitable contributions as a percentage of its deposits in California. The Board notes that neither the CRA nor the banking agencies' implementing rules require that financial institutions engage in any type of philanthropy.

and confidential supervisory information. Based on the Board's evaluation of PWB's and CSB's CRA performance records, its review of examination reports, and its consultations with the FDIC, the Board believes that the convenience and needs factor, including the CRA records of the insured depository institutions involved in this transaction, weighs in favor of approval of the application.

Some commenters urged the Board to require PacWest to provide specific pledges or plans to meet the credit needs of the communities it serves. The Board generally focuses on the existing CRA performance record of an applicant and the programs that an applicant has in place to serve the credit needs of its assessment areas at the time the Board reviews a proposal.[32] Nevertheless, the Board notes that PWB has developed a "CRA Community Development Plan" establishing performance standards for the bank during 2014 in support of its CRA compliance objectives. The CRA Community Development Plan outlines specific goals for small business lending, community development lending, qualified investments, charitable contributions, and community development services, taking into account consummation of the proposed transaction. PacWest represents that the CRA Community Development Plan is designed to improve PWB's CRA performance record, with a goal of achieving an "outstanding" rating within three years.

Financial Stability

The Dodd-Frank Act added "risk to the stability of the United States banking or financial system" to the list of possible adverse effects that the Board must weigh against any expected public benefits in considering proposals under section 4(j) of the BHC Act.[33] To assess the likely effect of a proposed transaction

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[32] See Bank of America Order at C87 (2008).

[33] Dodd-Frank Act, § 604(e), codified at 12 U.S.C. § 1843(j)(2)(A). Other provisions of the Dodd-Frank Act impose a similar requirement that the Board consider or weigh the risks to financial stability posed by a merger, acquisition, or

on the stability of the U.S. banking or financial system, the Board considers a variety of metrics that capture the systemic "footprint" of the merged firm and the incremental effect of the transaction on the systemic footprint of the acquiring firm. These metrics include measures of the size of the resulting firm, the availability of substitute providers for any critical products and services offered by the resulting firm, the interconnectedness of the resulting firm with the banking or financial system, the extent to which the resulting firm contributes to the complexity of the financial system, and the extent of the cross-border activities of the resulting firm.[34] In addition to these quantitative measures, the Board considers qualitative factors, such as the opaqueness and complexity of an institution's internal organization, which are indicative of the relative degree of difficulty of resolving the resulting firm. A financial institution that can be resolved in an orderly manner is less likely to inflict material damage to the broader economy.[35]

The Board has considered information relevant to risks to the stability of the United States banking or financial system. After consummation, PacWest would have approximately $15.4 billion in consolidated assets, and by any of a number of alternative measures of firm size, PacWest would be outside the 75 largest U.S. financial institutions. The Board generally presumes that a merger that involves an acquisition of less than $2 billion in assets, or results in a firm with less than $25 billion in total consolidated assets, will not pose significant risks to the financial stability of the United States absent evidence that the transaction would result in a significant increase in interconnectedness, complexity, cross-border

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expansion proposal by a financial institution. See sections 163, 173, and 604(d) and (f) of the Dodd-Frank Act.

[34] Many of the metrics considered by the Board measure an institution's activities relative to the U.S. financial system.

[35] For further discussion of the financial stability standard, see Capital One Order at 28.

activities, or other risk factors. Such additional risk factors are not present in this transaction. PacWest engages in and would continue to engage in traditional commercial banking activities. The resulting organization would experience small increases in the metrics that the Board considers to measure an institution's complexity and interconnectedness, with the resulting firm generally ranking outside of the top 100 U.S. financial institutions in terms of those metrics. For example, PacWest's intrafinancial system assets and liabilities would comprise a negligible share of the system-wide total, both before and after the transaction. The resulting organization would not engage in complex activities, nor would it provide critical services in such volume that disruption in those services would have a significant impact on the macroeconomic condition of the United States by disrupting trade or resulting in increased resolution difficulties.

In light of all the facts and circumstances, this transaction would not appear to result in meaningfully greater or more concentrated risks to the stability of the U.S. banking or financial system. Based on these and all other facts of record, the Board has determined that financial stability considerations relating to this proposal weigh in favor of an approval.

Additional Public Benefits of the Proposal

As noted above, in connection with a notice under section 4(c)(8) of the BHC Act, section 4(j) of the Act requires the Board to "consider whether performance of the activity by a bank holding company or a subsidiary of such company 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, unsound banking practices, or risk to the stability of the United States banking or financial system."[36]

[36] 12 U.S.C. § 1843(j)(2).

In addition to considering the effects discussed above, the Board has considered that the proposal would allow PWB to expand the range of financial products and services available to existing customers of CSB. Currently, CSB provides only a limited range of deposit and commercial loan products and is prohibited by its charter from offering demand deposit accounts. Following the acquisition, CSB's customers would gain access to PWB's deposit products and services, including demand deposit accounts, value checking accounts, value interest checking accounts, high-yield checking accounts, and high-yield money market accounts. PWB's value checking and value interest checking accounts may be particularly beneficial to CSB's LMI customers, as these accounts have low opening deposit requirements, lower monthly service charges compared to traditional checking accounts, and lower monthly balances required to waive monthly service charges. In addition, CSB's customers would gain access to a broader range of basic lending and banking products and services, including consumer unsecured personal loans and lines of credit, secured home equity lines of credit, secured loans for property such as automobiles and boats, and overdraft lines of credit linked to demand deposit accounts. PacWest's customers would benefit from additional, more specialized commercial lending products CapitalSource provides. In addition, customers of both institutions would benefit from a more expansive branch network.

The proposal would provide the opportunity for operational efficiencies, cost savings, and revenue enhancement for the combined organization. By improving efficiencies and recognizing such savings, PacWest would be better placed to provide credit and banking services to its entire customer base, including current customers of CapitalSource.

The Board has determined that the conduct of the proposed nonbanking activities within the framework of Regulation Y, Board precedent, and this order are not likely to result in significant adverse effects, such as undue

concentration of resources, decreased or unfair competition, conflicts of interest, unsound banking practices, or risk to the stability of the United States banking or financial system.

On the basis of the entire record, including the commitments made in this case and conditions noted in this order, and for the reasons discussed above, the Board believes that the balance of benefits and potential adverse effects related to competition, financial and managerial resources, convenience and needs, financial stability, and other factors weigh in favor of approval of this proposal. Accordingly, the Board has determined that the balance of the public benefits under the standard of section 4(j)(2) of the BHC Act is consistent with approval.

Conclusion

Based on the foregoing and all the facts of record, the Board has determined that the proposal should be, and hereby is, approved.[37] In reaching its conclusion, the Board has considered all the facts of record in light of the factors that it is required to consider under the BHC Act and other applicable statutes. The

[37] Several commenters requested that the Board hold public hearings on the proposal. The Board's regulations provide for a hearing on a notice filed under section 4 of the BHC Act if there are disputed issues of material fact that cannot be resolved in some other manner. 12 CFR 225.25(a)(2). Under its rules, the Board also may, in its discretion, hold a public hearing if appropriate to allow interested persons an opportunity to provide relevant testimony when written comments would not adequately present their views. The Board has considered the commenters' requests in light of all the facts of record. In the Board's view, the commenters have had ample opportunity to submit comments on the proposal and, in fact, submitted written comments that the Board has considered in acting on the proposal. The commenters' requests do not identify disputed issues of fact that are material to the Board's decision and would be clarified by a public hearing. In addition, the requests do not demonstrate why the written comments do not present the commenters' views adequately or why a hearing otherwise would be necessary or appropriate. For these reasons, and based on all the facts of record, the Board has determined that a public hearing is not required or warranted in this case. Accordingly, the requests for a public hearing on the proposal are denied.

Board's approval is specifically conditioned on compliance by Notificants with the conditions imposed in this order and the commitments made to the Board in connection with the notice. The Board's approval also is subject to all the conditions set forth in Regulation Y, including those in sections 225.7 and 225.25(c),[38] and to the Board's authority to require such modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to ensure compliance with, and to prevent evasion of, the provisions of the BHC Act and the Board's regulations and orders issued thereunder. For purposes of this action, these conditions and commitments are deemed to be conditions imposed in writing by the Board in connection with its findings and decision herein and, as such, may be enforced in proceedings under applicable law.

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 San Francisco acting pursuant to delegated authority.

By order of the Board of Governors,[39] effective April 1, 2014.

Margaret McCloskey Shanks (signed)

Margaret McCloskey Shanks
Deputy Secretary of the Board

[38] 12 CFR 225.7 and 225.25(c).

[39] Voting for this action: Chair Yellen, and Governors Tarullo, Stein, and Powell.