

FEDERAL RESERVE SYSTEM

Ameris Bancorp  
Moultrie, Georgia

Order Approving the Acquisition of a Bank Holding Company

Ameris Bancorp (“Ameris”), Moultrie, Georgia, a bank holding company within the meaning of the Bank Holding Company Act of 1956 (“BHC Act”),<sup>1</sup> has requested the Board’s approval under section 3 of the BHC Act<sup>2</sup> to merge with Hamilton State Bancshares, Inc. (“Hamilton”), and thereby indirectly acquire Hamilton State Bank, both of Hoschton, Georgia. Hamilton State Bank would be merged into Ameris’s subsidiary bank, Ameris Bank, Moultrie, Georgia.<sup>3</sup>

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (83 Federal Register 10,852 (March 13, 2018)).<sup>4</sup> The time for submitting comments has expired, and the Board has considered the proposal and all comments received in light of the factors set forth in section 3 of the BHC Act.

Ameris, with consolidated assets of approximately \$7.9 billion, is the 158th largest insured depository organization in the United States. Ameris controls approximately \$6.6 billion in consolidated deposits, which represent less than 1 percent

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<sup>1</sup> 12 U.S.C. § 1841 et seq.

<sup>2</sup> 12 U.S.C. § 1842.

<sup>3</sup> The merger of Hamilton State Bank into Ameris Bank is subject to approval by the Federal Deposit Insurance Corporation (“FDIC”), pursuant to section 18(c) of the Federal Deposit Insurance Act. 12 U.S.C. § 1828(c).

<sup>4</sup> 12 CFR 262.3(b).

of the total amount of deposits of insured depository institutions in the United States.<sup>5</sup> Ameris controls Ameris Bank, which operates in Georgia, Florida, Alabama, and South Carolina. Ameris is the 14th largest insured depository organization in Georgia, controlling deposits of approximately \$2.8 billion, which represent 1.2 percent of the total deposits of insured depository institutions in that state.<sup>6</sup>

Hamilton, with consolidated assets of approximately \$1.8 billion, is the 430th largest insured depository organization in the United States. Hamilton controls approximately \$1.5 billion in consolidated deposits, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the United States. Hamilton controls Hamilton State Bank, which operates only in Georgia. Hamilton is the 19th largest insured depository organization in Georgia, controlling deposits of approximately \$1.5 billion, which represent 0.6 percent of the total deposits of insured depository institutions in that state.

On consummation of the proposal, Ameris would become the 136th largest insured depository organization in the United States, with consolidated assets of approximately \$9.6 billion,<sup>7</sup> which represent less than 1 percent of the total assets of insured depository organizations in the United States. Ameris would control total deposits of approximately \$8.2 billion, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the United States. In Georgia, Ameris would become the 9th largest insured depository organization, controlling deposits of approximately \$4.4 billion, which represent 1.8 percent of the total deposits of insured depository institutions in the state.

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<sup>5</sup> National asset and deposit data are as of December 31, 2017, unless otherwise noted.

<sup>6</sup> State deposit data are as of June 30, 2017, unless otherwise noted. In this context, insured depository institutions include commercial banks, savings associations, and savings banks.

<sup>7</sup> Consolidated assets are as of March 31, 2018, and do not reflect Ameris's recent acquisition of Atlantic Coast Financial Corporation. See Ameris Bancorp, FRB Order No. 2018-12 (May 9, 2018).

## Competitive Considerations

Section 3 of the BHC Act prohibits the Board from approving a proposal that would result in a monopoly or would be in furtherance of an attempt to monopolize the business of banking in any relevant market.<sup>8</sup> The BHC Act also prohibits the Board from approving a proposal that would substantially lessen competition or tend to create a monopoly in any banking market, unless the anticompetitive effects of the proposal are clearly outweighed in the public interest by the probable effect of the proposal in meeting the convenience and needs of the community to be served.<sup>9</sup>

Ameris Bank and Hamilton State Bank compete directly in the Atlanta, Georgia, banking market (“Atlanta market”).<sup>10</sup> The Board has considered the competitive effects of the proposal in this banking market. In particular, the Board has considered the number of competitors that would remain in the market; the relative share of total deposits in insured depository institutions in the market (“market deposits”) that Ameris would control;<sup>11</sup> the concentration level of market deposits and the increase in this level, as measured by the Herfindahl-Hirschman Index (“HHI”) under the

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<sup>8</sup> 12 U.S.C. § 1842(c)(1).

<sup>9</sup> 12 U.S.C. § 1842(c)(1)(B).

<sup>10</sup> The Atlanta market is defined as Bartow, Cherokee, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, Rockdale, and Walton Counties, Hall County minus the town of Clermont, the towns of Auburn and Winder in Barrow County, and Luthersville in Meriwether County, all in Georgia.

<sup>11</sup> Local deposit and market share data are as of June 30, 2017, and are based on calculations in which the deposits of thrift institutions are included at 50 percent. The Board previously has indicated that thrift institutions have become, or have the potential to become, significant competitors to commercial banks. See, e.g., Midwest Financial Group, 75 Federal Reserve Bulletin 386 (1989); National City Corporation, 70 Federal Reserve Bulletin 743 (1984). Thus, the Board regularly has included thrift deposits in the market share calculation on a 50 percent weighted basis. See, e.g., First Hawaiian, Inc., 77 Federal Reserve Bulletin 52 (1991).

Department of Justice Bank Merger Competitive Review guidelines (“DOJ Bank Merger Guidelines”);<sup>12</sup> and other characteristics of the market.

Consummation of the proposal would be consistent with Board precedent and within the thresholds in the DOJ Bank Merger Guidelines in the Atlanta market. On consummation of the proposal, the Atlanta market would remain moderately concentrated as measured by the HHI, according to the DOJ Bank Merger Guidelines. The HHI would not change, and numerous competitors would remain in the market.<sup>13</sup>

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

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<sup>12</sup> Under the DOJ Bank Merger Guidelines, a market is considered unconcentrated if the post-merger HHI is under 1000, moderately concentrated if the post-merger HHI is between 1000 and 1800, and highly concentrated if the post-merger HHI exceeds 1800. The Department of Justice (“DOJ”) has informed the Board that a bank merger or acquisition generally would not be challenged (in the absence of other factors indicating anticompetitive effects) unless the post-merger HHI is at least 1800 and the merger increases the HHI by more than 200 points. Although the DOJ and the Federal Trade Commission issued revised Horizontal Merger Guidelines in 2010, the DOJ has confirmed that its Bank Merger Guidelines, which were issued in 1995, were not modified. See Press Release, Department of Justice (August 19, 2010), available at [www.justice.gov/opa/pr/2010/August/10-at-938.html](http://www.justice.gov/opa/pr/2010/August/10-at-938.html).

<sup>13</sup> Ameris operates the 57th largest depository institution in the Atlanta market, controlling approximately \$81.1 million in deposits, which represent 0.05 percent of market deposits. Hamilton operates the 17th largest depository institution in the same market, controlling deposits of approximately \$1.2 billion, which represent approximately 0.72 percent of market deposits. On consummation of the proposed transaction, Ameris would become the 17th largest depository organization in the market, controlling deposits of approximately \$1.3 billion, which represent approximately 0.77 percent of market deposits. The HHI for the Atlanta market would remain unchanged at 1616, and 81 other banking organizations would remain in the market.

Based on all of the facts of record, the Board concludes that consummation of the proposal would not have a significantly adverse effect on competition or on the concentration of resources in the Atlanta market or in any other relevant banking market. Accordingly, the Board determines that competitive considerations are consistent with approval.

#### Financial, Managerial, and Other Supervisory Considerations

In reviewing a proposal under section 3 of the BHC Act, the Board considers the financial and managerial resources and the future prospects of the institutions involved.<sup>14</sup> In its evaluation of financial factors, the Board reviews information regarding the financial condition of the organizations involved on both parent-only and consolidated bases, as well as information regarding the financial condition of the subsidiary depository institutions and the organizations' significant nonbanking operations. In this evaluation, the Board considers a variety of information regarding capital adequacy, asset quality, liquidity, and earnings performance, as well as public comments on the proposal. The Board evaluates the financial condition of the combined organization, including its capital position, asset quality, liquidity, 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 to complete effectively the proposed integration of the operations of the institutions. In assessing financial factors, the Board considers capital adequacy to be especially important. The Board considers the future prospects of the organizations involved in the proposal in light of their financial and managerial resources and the proposed business plan.

Ameris and Ameris Bank are well capitalized, and the combined organization would remain so on consummation of the proposal. The proposed transaction is a bank holding company merger that is structured as a cash-share exchange,

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<sup>14</sup> 12 U.S.C. § 1842(c)(2), (5), and (6).

with a subsequent merger of the subsidiary depository institutions.<sup>15</sup> The asset quality, earnings, and liquidity of both Ameris Bank and Hamilton State Bank are consistent with approval, and Ameris appears to have adequate resources to absorb the related costs of the proposal and to complete the integration of the institutions' operations. In addition, the future prospects of the institutions under the proposal are considered consistent with approval.

The Board also has considered the managerial resources of the organizations involved and of the proposed combined organization. The Board has reviewed the examination records of Ameris, Hamilton, and their subsidiary depository institutions, including assessments of their management, risk-management systems, and operations. In addition, the Board has considered information provided by Ameris; the Board's supervisory experiences and those of other relevant bank supervisory agencies with the organizations; the organizations' records of compliance with applicable banking, consumer protection, and anti-money-laundering laws; and information provided by the commenter.

Ameris, Hamilton, and their subsidiary depository institutions are each considered to be well managed. Ameris has a record of successfully integrating organizations into its operations and risk-management systems after acquisitions. Ameris's directors and senior executive officers have knowledge of and experience in the banking and financial services sectors, and Ameris's risk-management program appears consistent with approval of this expansionary proposal.

The Board also has considered Ameris's plans for implementing the proposal. Ameris has conducted comprehensive due diligence and is devoting significant financial and other resources to address all aspects of the post-acquisition integration process for this proposal. Ameris would implement its risk-management policies,

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<sup>15</sup> As part of the proposed transaction, each share of Hamilton common stock would be converted into the right to receive (i) 0.16 shares of Ameris common stock together with cash in lieu of any fractional shares and (ii) \$0.93 in cash. Ameris has the financial resources to effect the proposed transaction.

procedures, and controls at the combined organization, and these are considered acceptable from a supervisory perspective. In addition, Ameris's management has the experience and resources to operate the combined organization in a safe and sound manner, and Ameris represents that there are no anticipated changes with respect to the executive officers and directors of Ameris or Ameris Bank as a result of the proposal.

Based on all of the facts of record, including Ameris's supervisory record, managerial and operational resources, and plans for operating the combined institution after consummation, the Board concludes that considerations relating to the financial and managerial resources and the future prospects of the organizations involved in the proposal, as well as the records of effectiveness of Ameris and Hamilton in combatting money-laundering activities, are consistent with approval.

#### Convenience and Needs Considerations

In acting on a proposal under section 3 of the BHC Act, the Board considers the effects of the proposal on the convenience and needs of the communities to be served.<sup>16</sup> In its evaluation of the effects of the proposal on the convenience and needs of the communities to be served, the Board considers whether the relevant institutions are helping to meet the credit needs of the communities they serve, as well as other potential effects of the proposal on the convenience and needs of the communities to be served. In this evaluation, the Board places particular emphasis on the records of the relevant depository institutions under the Community Reinvestment Act ("CRA").<sup>17</sup> 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,<sup>18</sup> and requires the appropriate federal financial supervisory agency to assess a depository institution's record of helping

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<sup>16</sup> 12 U.S.C. § 1842(c)(2).

<sup>17</sup> 12 U.S.C. § 2901 et seq.

<sup>18</sup> 12 U.S.C. § 2901(b).

to meet the credit needs of its entire community, including low- and moderate-income (“LMI”) neighborhoods, in evaluating bank expansionary proposals.<sup>19</sup>

In addition, the Board considers the banks’ overall compliance records and recent fair lending examinations. Fair lending laws require all lending institutions to provide applicants with equal access to credit, regardless of their race, ethnicity, or certain other characteristics. The Board also considers assessments of other relevant supervisors, the supervisory views of examiners, other supervisory information, information provided by the applicant, and comments received on the proposal. The Board also may consider the institution’s business model, its marketing and outreach plans, the organization’s plans after consummation, and any other information the Board deems relevant.

In assessing the convenience and needs factor in this case, the Board has considered all the facts of record, including reports of examination of the CRA performance of Ameris Bank and Hamilton State Bank, the fair lending and compliance records of both banks, the supervisory views of the FDIC, confidential supervisory information, information provided by Ameris, and the public comment received on the proposal.

*Public Comment on the Proposal*

In this case, a commenter objected to the proposal on the basis of alleged disparities in the number of home mortgage loans made by Ameris Bank to, and/or in the rate of denials for home mortgage applications from, African Americans and/or Hispanics, as compared to whites, in Atlanta, Georgia; Jacksonville, Florida; and Tallahassee, Florida, based on data reported under the Home Mortgage Disclosure Act of 1975 (“HMDA”).<sup>20</sup> The commenter also alleged that Ameris Bank engaged in predatory collection of overdraft fees and expressed concern over Ameris’s recent record of

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<sup>19</sup> 12 U.S.C. § 2903.

<sup>20</sup> 12 U.S.C. § 2801 *et seq.*

mergers and acquisitions. The allegations against Ameris were considered by the Board in its May 9, 2018, approval of Ameris's application to acquire Atlantic Coast Financial Corporation<sup>21</sup> and by the FDIC in its April 24, 2018, approval of the related bank merger application.

In addition, the commenter alleged, based on HMDA data, disparities in Hamilton State Bank's rate of denials to African Americans in Atlanta, Georgia. The commenter also alleged disparities in the level of applications from African Americans in Atlanta, which it attributed to disparate marketing by Hamilton State Bank.

*Businesses of the Involved Institutions and Response to the Public Comment*

Through its network of branches in Georgia, Florida, Alabama, and South Carolina, Ameris Bank offers a variety of products and services, including real estate loans, auto-secured and recreational-vehicle-secured loans, and home equity lines of credit. Ameris Bank also offers various deposit products for both businesses and consumers.

Hamilton State Bank offers a full line of consumer and business loan and deposit products, as well as related financial services, through its branches in Georgia. Hamilton State Bank's products and services include commercial and residential real estate loans, equipment financing, checking and savings accounts, certificates of deposit, and retirement accounts.

In response to the commenter's allegations, Ameris asserts that approval of the proposed transaction is warranted based on Ameris Bank's CRA performance evaluation and Ameris Bank's involvement in other programs tailored to assist LMI individuals and first-time homebuyers in pursuing or maintaining homeownership. Ameris notes that HMDA data do not take into consideration other critical inputs, such as borrower creditworthiness, collateral value, credit scores, and other factors relevant to credit decisions. Ameris also asserts that HMDA data do not reflect the range of Ameris Bank's lending activities and efforts within the communities it serves. Ameris argues

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<sup>21</sup> See Ameris Bancorp, FRB Order No. 2018-12 at 11 (May 9, 2018).

that the commenter's allegation of predatory overdraft fees is based on an isolated call report error for which a correction was filed by Ameris Bank after receiving clarification from the FDIC.

In response to the commenter's allegations regarding Hamilton State Bank, Ameris asserts that Hamilton State Bank has traditionally focused on commercial banking and that its mortgage products are limited to qualified mortgages that include conventional fixed-rate and ARM loans and are not actively pursued by Hamilton State Bank. Ameris also asserts that Hamilton State Bank's CRA performance is consistent with approval and that Hamilton State Bank has not received any fair lending complaints.

*Records of Performance under the CRA*

In evaluating the convenience and needs factor and CRA performance, the Board considers a substantial amount of information in addition to information provided by public commenters and the response to comments by the applicant. In particular, the Board considers examinations by the appropriate federal supervisors of the CRA performance records of the relevant institutions, as well as information and views provided by those supervisors.<sup>22</sup> In this case, the Board considered the supervisory views of the FDIC with respect to both institutions.

The CRA requires that the appropriate federal financial supervisor for a depository institution prepare a written evaluation of the institution's record of helping to meet the credit needs of its entire community, including LMI neighborhoods.<sup>23</sup> 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 by the institution's primary federal supervisor of the institution's overall record of lending in its communities.

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<sup>22</sup> See Interagency Questions and Answers Regarding Community Reinvestment, 81 Federal Register 48,506, 48,548 (July 25, 2016).

<sup>23</sup> 12 U.S.C. § 2906.

In general, federal financial supervisors apply a lending test to evaluate the performance of large insured depository institutions, such as Ameris Bank and Hamilton State Bank, in helping to meet the credit needs of the communities they serve. The lending test specifically evaluates the institution's lending to determine whether the institution is helping to meet the credit needs of individuals and geographies of all income levels. As part of the lending test, examiners review and analyze an institution's data reported under HMDA, in addition to small business, small farm, and community development loan data collected and reported under the CRA regulations, to assess an institution's lending activities with respect to borrowers and geographies of different income levels. The institution's lending performance is based on a variety of factors, including (1) the number and amounts of home mortgage, small business, small farm, and consumer loans (as applicable) in the institution's CRA assessment areas ("AAs"); (2) the geographic distribution of the institution's lending, including the proportion and dispersion of the institution's lending in its AAs and the number and amounts of loans in low-, moderate-, middle-, and upper-income geographies; (3) the distribution of loans based on borrower characteristics, including, for home mortgage loans, the number and amounts of loans to low-, moderate-, middle-, and upper-income individuals;<sup>24</sup> (4) the institution's community development lending, including the number and amounts of community development loans and their complexity and innovativeness; and (5) the institution's use of innovative or flexible lending practices to address the credit needs of LMI individuals and geographies.<sup>25</sup> Large institutions also are subject to an investment test, which evaluates the number and amounts of qualified investments that benefit their AAs, and a service test, which evaluates the availability and effectiveness of their

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<sup>24</sup> Examiners also consider the number and amounts of small business and small farm loans to businesses and farms with gross annual revenues of \$1 million or less, small business and small farm loans by loan amount at origination, and consumer loans, if applicable, to low-, moderate-, middle-, and upper-income individuals. See, e.g., 12 CFR 228.22(b)(3).

<sup>25</sup> See 12 CFR 228.22(b).

systems for delivering retail banking services and the extent and innovativeness of their community development services.<sup>26</sup>

The Board is concerned when HMDA data reflect disparities in the rates of loan applications, originations, and denials among members of different racial or ethnic groups in local areas. These types of disparities may indicate weaknesses in the adequacy of policies and programs at an institution for meeting its obligations to extend credit fairly. However, other information critical to an institution's credit decisions is not available from HMDA data.<sup>27</sup> Consequently, HMDA data disparities must be evaluated in the context of other information regarding the lending record of an institution.

#### *CRA Performance of Ameris Bank*

Ameris Bank was assigned an overall rating of "Satisfactory" at its most recent CRA performance evaluation by the FDIC, as of October 3, 2016 ("Ameris Bank Evaluation").<sup>28</sup> The bank received "High Satisfactory" ratings for the Lending Test and the Service Test and a "Low Satisfactory" rating for the Investment Test.<sup>29</sup>

Examiners found that the bank's lending levels reflected good responsiveness to the bank's AA needs and that the bank made a majority of its loans within its AAs. Examiners determined that the bank's borrower profile revealed good

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<sup>26</sup> See 12 CFR 228.21 *et seq.*

<sup>27</sup> Other information relevant to credit decisions could include credit history, debt-to-income ratios, and loan-to-value ratios. Accordingly, when conducting fair lending examinations, examiners analyze such additional information before reaching a determination regarding an institution's compliance with fair lending laws.

<sup>28</sup> The Ameris Bank Evaluation was conducted using Large Bank CRA Examination Procedures. Examiners reviewed residential mortgage, small business, and small farm loans from January 1, 2014, through June 30, 2016. In addition, examiners considered the community development loans originated by Ameris Bank between January 21, 2014, and October 3, 2016, as well as all qualified investments either purchased prior to but still outstanding as of the evaluation date or purchased during the evaluation period and all community development services performed during the evaluation period.

<sup>29</sup> The Ameris Bank Evaluation reviewed the bank's activities in each of its 22 AAs throughout Georgia, Florida, Alabama, and South Carolina.

penetration among retail customers of different income levels and businesses of different sizes. Examiners further found that the geographic distribution of the bank's loans reflected good penetration throughout the bank's AAs. Examiners noted that the bank exhibited a good record of serving the credit needs of the most economically disadvantaged areas of its AAs, LMI individuals, and very small businesses, consistent with safe and sound banking practices. Examiners found that Ameris Bank made a high level of community development loans and that it used flexible lending practices in order to serve its AAs. With respect to the Atlanta market, examiners found that lending levels reflected good responsiveness to credit needs and that HMDA data reflected excellent penetration throughout the AA. With respect to the Tallahassee market, examiners found that lending levels reflected good responsiveness to credit needs and that HMDA data reflected good penetration throughout the AA. With respect to the Jacksonville market, examiners found that lending levels reflected adequate responsiveness to credit needs and that HMDA data reflected good penetration throughout the AA.

Examiners found that Ameris Bank had an adequate level of qualified community development investments and donations and that the bank exhibited adequate responsiveness to credit and community economic development needs. Examiners noted that the bank occasionally used innovative or complex investments to support its community development initiatives.

Examiners found that Ameris Bank's delivery systems were reasonably accessible to essentially all portions of its AAs and that, to the extent changes had been made, the bank's opening and closing of branches throughout its AAs had not adversely affected the accessibility of its delivery systems, particularly in LMI geographies and to LMI individuals. Examiners further found that services and business hours did not vary in a way that inconvenienced certain portions of its AAs, particularly LMI geographies and individuals, and that the bank provided a relatively high level of community development services within its AAs.

*Ameris Bank's Efforts since the Ameris Bank Evaluation*

Ameris represents that, since the Ameris Bank Evaluation, Ameris Bank has continued to meet the credit needs of its communities. Specifically, Ameris represents that Ameris Bank reported a significant volume of loans to first-time homebuyers in 2017. Ameris also represents that Ameris Bank participates in federal loan programs tailored to assist LMI individuals and first-time homebuyers.

*CRA Performance of Hamilton State Bank*

Hamilton State Bank received an overall rating of “Satisfactory” at its most recent CRA performance evaluation by the FDIC, as of October 19, 2015 (“Hamilton State Bank Evaluation”).<sup>30</sup> The bank received a “High Satisfactory” rating for the Lending Test and “Low Satisfactory” ratings for the Investment Test and the Service Test.<sup>31</sup>

Examiners concluded that Hamilton State Bank’s lending performance reflected good responsiveness to the credit needs in its AAs and that a high percentage of the bank’s loans were originated in its AAs. Examiners found that the geographic distribution of the bank’s home mortgage and small business loans reflected an excellent dispersion throughout its AAs. Examiners also found that the bank’s distribution of loans among individuals of different income levels and businesses of different sizes was good. Examiners noted that the bank had an adequate level of qualified community development investments and donations and that the bank showed adequate responsiveness to credit and community economic development needs. Finally, examiners found the bank’s delivery systems to be reasonably accessible to essentially all portions of the bank’s AAs, including in LMI areas and to LMI individuals.

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<sup>30</sup> The Hamilton State Bank Evaluation was conducted using Large Bank CRA Examination Procedures. Examiners reviewed small business loans from January 1, 2014, through June 30, 2015, and home mortgage loans reported on the bank’s 2013, 2014, and year-to-date 2015 HMDA Loan Application Registers.

<sup>31</sup> The Hamilton State Bank Evaluation included full-scope evaluations of the Atlanta Metropolitan Statistical Area (MSA) AA and the Gainesville MSA AA.

### *Views of the FDIC*

The Board has consulted with the FDIC regarding Ameris Bank's CRA, consumer compliance, and fair lending records. The FDIC reviewed the bank merger application underlying this proposal and, in so doing, considered the comment received by the Board. The Board has considered the results of the FDIC's most recent consumer compliance examination of Ameris Bank, which included an evaluation of the bank's compliance management system, with an emphasis on areas exhibiting the potential risk of consumer harm. As a part of the examination, the fair lending review included an analysis of the bank's residential lending.

The Board also has considered the results of the FDIC's most recent consumer compliance examination of Hamilton State Bank, which included a risk-focused review of the bank's compliance management system, with an emphasis on areas exhibiting greater potential risk of consumer harm, and a fair lending review.

The Board has taken the consultations with the FDIC and the information discussed above into account in evaluating the proposal, including in considering whether Ameris has the experience and resources to ensure that Ameris Bank helps to meet the credit needs of the communities within its AAs.

### *Additional Convenience and Needs Considerations*

The Board also considers other potential effects of the proposal on the convenience and needs of the communities to be served. Ameris represents that, following consummation of the proposal, existing customers of Hamilton State Bank would benefit from the technical expertise and resources that Ameris Bank has developed. Ameris further represents that Ameris Bank would provide a substantially similar suite of retail and commercial banking services and products to those provided by Hamilton State Bank prior to the merger. Ameris asserts that Ameris Bank would strive to maintain a strong working relationship with city and county governments in the former Hamilton State Bank markets and that Ameris Bank would use all available media, including community publications, to market its credit services to the entire community. Ameris represents that Ameris Bank's board of directors would continue to review and

approve all CRA programs and that local officers would routinely analyze demographic data and loan activity to ensure that lending services are accessible to all areas of the community, including LMI neighborhoods. Ameris indicated that Ameris Bank's CRA and consumer compliance programs and policies would be implemented at the combined institution.

*Conclusion on Convenience and Needs Considerations*

The Board has considered all the facts of record, including the records of the relevant depository institutions under the CRA, the institutions' records of compliance with consumer protection laws, supervisory views of the FDIC, confidential supervisory information, information provided by Ameris, the public comment on the proposal, and other potential effects of the proposal on the convenience and needs of the communities to be served. Based on that review, the Board concludes that the convenience and needs factor is consistent with approval.

Financial Stability

The Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") amended section 3 of the BHC Act to require the Board to consider "the extent to which a proposed acquisition, merger, or consolidation would result in greater or more concentrated risks to the stability of the United States banking or financial system."<sup>32</sup>

To assess the likely effect of a proposed transaction on the stability of the United States banking or financial system, the Board considers a variety of metrics that capture the systemic "footprint" of the resulting 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

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<sup>32</sup> Dodd-Frank Act § 604(d), Pub. L. No. 111-203, 124 Stat. 1376, 1601 (2010), codified at 12 U.S.C. § 1842(c)(7).

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.<sup>33</sup> These categories are not exhaustive, and additional categories could inform the Board's decision. In addition to these quantitative measures, the Board considers qualitative factors, such as the opaqueness and complexity of an institution's internal organization, that 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 on the broader economy.<sup>34</sup>

The Board's experience has shown that proposals involving an acquisition of less than \$10 billion in assets, or that result in a firm with less than \$100 billion in total assets, are generally not likely to pose systemic risks. Accordingly, the Board presumes that a proposal does not raise material financial stability concerns if the assets involved fall below either of these size thresholds, absent evidence that the transaction would result in a significant increase in interconnectedness, complexity, cross-border activities, or other risk factors.<sup>35</sup>

In this case, the Board has considered information relevant to risks to the stability of the United States banking or financial system. The proposal involves a target that has less than \$10 billion in assets and a pro forma organization of less than \$100 billion in assets. Both the acquirer and the target are predominantly engaged in a

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<sup>33</sup> Many of the metrics considered by the Board measure an institution's activities relative to the United States financial system.

<sup>34</sup> For further discussion of the financial stability standard, see Capital One Financial Corporation, FRB Order 2012-2 (February 14, 2012).

<sup>35</sup> See People's United Financial, Inc., FRB Order No. 2017-08 at 25-26 (March 16, 2017). Notwithstanding this presumption, the Board has the authority to review the financial stability implications of any proposal. For example, an acquisition involving a global systemically important bank could warrant a financial stability review by the Board, regardless of the size of the acquisition.

variety of consumer and commercial banking activities.<sup>36</sup> The pro forma organization would have minimal cross-border activities and would not exhibit an organizational structure, complex interrelationships, or unique characteristics that would complicate resolution of the firm in the event of financial distress. In addition, the organization would not be a critical services provider or so interconnected with other firms or the markets that it would pose a significant risk to the financial system in the event of financial distress.

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 United States banking or financial system. Based on these and all other facts of record, the Board determines that considerations relating to financial stability are consistent with approval.

### Conclusion

Based on the foregoing and all the facts of record, the Board determines that the application should be, and hereby is, approved. 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 Board's approval is specifically conditioned on compliance by Ameris with all the conditions imposed in this order, including receipt of all required regulatory approvals, and on any commitments made to the Board in connection with the proposal. For purposes of this action, the 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.

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<sup>36</sup> Ameris and Hamilton offer a range of retail and commercial banking products and services. Ameris has, and as a result of the proposal would continue to have, a small market share in these products and services on a nationwide basis.

The proposal may not be consummated before the fifteenth calendar day after the effective date of this order or later than three months thereafter, unless such period is extended for good cause by the Board or the Federal Reserve Bank of Atlanta, acting under delegated authority.

By order of the Board of Governors,<sup>37</sup> effective June 13, 2018.

*Margaret McCloskey Shanks (signed)*

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Margaret McCloskey Shanks  
Deputy Secretary of the Board

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<sup>37</sup> Voting for this action: Chairman Powell, Vice Chairman for Supervision Quarles, and Governor Brainard.