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# New Millennium Heralds Changes in North Carolina's Financial Services Landscape

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## NOTES & COMMENTS

### New Millennium Heralds Changes in North Carolina's Financial Services Landscape

#### I. INTRODUCTION

The year 1999 will likely be given special attention in future articles and books on banking law. Two events will define 1999 when businesspeople, attorneys, scholars, and students look back on it in the years to come. The first is the passage of major financial services legislation, both at the federal level and here in North Carolina. In November of 1999, Congress passed the long-awaited financial services modernization bill: the Gramm-Leach-Bliley Act of 1999.<sup>1</sup> Though the Act will not actually take effect until 2000, planning and expenditures calculated to take advantage of the new law started long before 1999, and will only increase now that it has passed.<sup>2</sup> The State of North Carolina passed a banking bill of its own in 1999.<sup>3</sup> Drafted to fill several gaps left by the patchwork of federal laws bearing on the practice of predatory lending, the North Carolina Predatory Home Lending Act is the first statute of its kind enacted in any state.<sup>4</sup>

The second banking event that defined 1999, like the Gramm-Leach-Bliley Act, did not actually take effect until the

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1. Gramm-Leach-Bliley Act of 1999, Pub. L. Law 106-102, 1999 U.S.C.A.N. (113 Stat.) 1338.

2. Bank of America was the first bank to take advantage of the new powers granted to banks under the Gramm-Leach-Bliley act (though it could be argued that Citigroup has this distinction) when, during the final weeks of 1999, it began procedures to convert existing insurance units into a subsidiary of a financial holding company. See *B of A Files to Set up Unit for Insurance*, LOS ANGELES TIMES, Dec. 30, 1999, at C4.

3. See generally Richard R. Daugherty, Note, *Will North Carolina's Predatory Home Lending Act Protect Borrowers from the Vulnerability Caused by the Inadequacy of Federal Law?*, 4 N.C. BANKING INST. 569 (2000) (analyzing the Predatory Home Lending Act).

4. See *id.*

year 2000; the very first second of the year 2000. The so-called "Y2K" problem insinuated itself into most facets of our lives during 1999. For financial institutions that were intent on preempting any actual problems, the year 2000 problem was actually a year 1999 problem. Banks across the country expended tremendous quantities of money and time preparing for the possible effects of "Y2K".<sup>5</sup> The problem was exacerbated by the fact that financial institutions, in order to maintain their reputations for safety and soundness, must take any and all precautionary measures that prudence dictates, or else risk losing the confidence of their depositors— and eventually the depositors themselves.<sup>6</sup>

This article will not attempt to treat either of these subjects in any greater detail. The first is simply beyond the scope of this short overview (though not beyond that of other articles in this journal),<sup>7</sup> and the second has been covered so thoroughly that further analysis is surely not necessary in these pages.<sup>8</sup> Suffice to say, financial institutions have devoted a great deal of time and money in planning for both the 1999 Act and the 2000 problem, and each event is therefore dutifully noted in the pages of this Year in Review.

## II. MERGERS AND ACQUISITIONS

For the first time in several years there is not a major merger or acquisition involving Bank of America or First Union to report. This is likely due to the fact that these two institutions

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5. See Audrey Y. Williams, *First Union's Y2K worry: clients' fears*, CHARLOTTE OBSERVER, Dec. 28, 1999, at 1D. First Union spent \$75 million preparing for the Y2K problem; Bank of America spent a hefty \$550 million. See *id.*

6. See *id.*

7. See Joseph A. Smith, *Retail Delivery of Financial Services After the Gramm-Leach-Bliley Act: How Will Public Policy Shape the "Financial Services Supermarket?"*, 4 N.C. BANKING INST. 39 (2000); Paul Polking & Scott Cammern, *Overview of the Gramm-Leach-Bliley Act*, 4 N.C. BANKING INST. 1 (2000). See also, David W. Roderer, *Tentative Steps Towards Privacy*, 4 N.C. BANKING INST. 209 (2000) (discussing the customer privacy provisions of the Gramm-Leach-Bliley Act of 1999).

8. See David Greaves, Note, *Banks and the Year 2000 Problem*, 2 N.C. BANKING INST. 390 (1998).

are still in the process of integrating their latest conquests. In fact, both banks have suffered post-deal hangovers of sorts. First Union's hangover has lasted most of 1999 as it has struggled to adjust to the CoreStates and Money Store deals.<sup>9</sup> First Union's stock suffered for most of the year,<sup>10</sup> and some analysts believe that the bank could be a takeover target as a result.<sup>11</sup> The bank's performance during 1999 also resulted in two other major decisions: the indefinite tabling of plans to construct an 80-story office tower next to the bank's other buildings on South College and South Tryon Streets in uptown Charlotte,<sup>12</sup> and the departure of bank president John Georgius.<sup>13</sup>

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9. For more on First Union's acquisition of the Money Store, see Evan M. Gilreath, Note, *The Entrance of Banks into Subprime Lending: First Union and The Money Store*, 3 N.C. BANKING INST. 149 (1999).

10. See Rick Brooks, *First Union Stock Plunges by 8.5% on Profit Warning*, WALL ST. J., Jan. 28, 1999, at C24; Rick Brooks, *First Union's Corp's Friday Stock Close Price May Reflect the Need for More Changes*, WALL ST. J., Aug. 2, 1999, at A4; Rick Brooks, *First Union Reduces Profit Forecast a Third Time, Sending Stock Down*, WALL ST. J., May 26, 1999, at B17 (stating that the performance of First Union's stock could be related to the bank's recent acquisitions); Pamela L. Moore, *Bank stocks take a beating*, CHARLOTTE OBSERVER, Aug. 6, 1999, at 1D; Amber Veverka, *Bank stock slides to 52-week low*, CHARLOTTE OBSERVER, Sept. 11, 1999, at 1D.

11. See Gen. Crutchfield *tapes message to calm the troops*, CHARLOTTE OBSERVER, July 12, 1999, at 2D (describing a taped address to First Union employees by CEO Ed Crutchfield in which he discussed "what happened to knock almost \$1 a share off '99 earnings projections," and whether First Union is a takeover target as a result).

12. Rumors that First Union was planning to construct an 80-story tower began swirling long before Three First Union Center, built across the street from First Union's other two Charlotte office towers was even completed, and on the heels of the completion of the bank's sprawling "campus," located off of I-85 in North Charlotte. See Doug Smith, *Retail on Street, 28-story tower*, CHARLOTTE OBSERVER, Sept. 11, 1998, at 1D; Lore Postman, *First Union Plans 4<sup>th</sup> tower*, CHARLOTTE OBSERVER, Aug 6, 1998, at 1D.

13. See Pamela L. Moore, *First Union's President to Retire*, THE CHARLOTTE OBSERVER, July 30, 1999, at 1A. First Union announced on July 29, 1999, that Georgius would retire effective December 31, 1999. See *id.*

Though Georgius had been the architect of First Union's controversial "future bank" concept, he was also responsible for many of First Union's successes. See *id.*

Many view Georgius as a "fall guy," whose departure was intended to convince investors, especially institutional investors, that First Union was serious about turning things around. See *id.* The resignation might also have helped to pacify investors "quietly agitating for Crutchfield's removal." *Id.* There were also indications that Georgius may have wanted to spend more time with his family, and may not have been totally opposed to the move. See *id.* See also Danielle Herubin, *2 vice-Chairmen added to First Union's mix*, CHARLOTTE OBSERVER, Aug. 18, 1999, at 1D.

Bank of America's post merger experience has not been nearly as tumultuous as First Union's, though the bank has expended a great deal of time and effort in meshing two of the largest banking operations in the country. Bank of America came under fire as a result of its third quarter report, in which some analysts felt that the bank had padded its numbers by including non-recurring revenue.<sup>14</sup> The bank would have failed to meet consensus projections without these additions.<sup>15</sup> Analysts are predicting that Bank of America might have trouble reaching earnings projections during the first two quarters of 2000 as well.<sup>16</sup> While part of the gloom and doom is the result of the post-merger growing pains, analysts are also concerned that Bank of America is not generating enough of its income from fees.<sup>17</sup>

#### A. *BB&T's 1999 Buying Spree*

If First Union and Bank of America have been quieter than usual, then BB&T and Wachovia have more than made up for it with furious activity during 1999. BB&T acquired five banks (and numerous other non-bank entities) in Georgia alone during 1999.<sup>18</sup> On January 1, 1999, BB&T had zero market presence in Georgia.<sup>19</sup> At the close of 1999, the Winston-Salem bank was Georgia's sixth largest, with \$5 billion plus in deposits, and over

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14. See Tania Padgett, *Bank of America Accused of Prettying Up Earnings*, AM. BANKER, Nov. 24, 1999, at 24.

15. See *id.*

16. See Tania Padgett, *B of A Seen as Next Big Bank Likely to Slide on Revenue Ills*, AM. BANKER, Sept. 7, 1999, at 38.

17. See *id.*

18. See Louis Whiteman, *BB&T to Pay \$124 M in Fifth Ga. Purchase of '99*, AM. BANKER, December 16, 1999, at 1. Perhaps some of BB&T's acquisitiveness can be explained by the fact its first quarter profits of \$138.4 million were up 15% from first quarter 1998. See *BB&T Corp.*, WALL ST. J., April 13, 1999, at C23. The bank's third quarter earnings rose as well. See Rick Brooks, *SunTrust, BB&T, and Hibernia Report Higher Earnings*, WALL ST. J., Oct. 13, 1999, at B4. Fourth-quarter earnings for BB&T rose 14% to \$ 158.8 million. See *SunTrust, BB&T Post Fourth-Period Profit Above Expectations*, WALL ST. J., Jan. 13, 2000, at B18.

19. See Louis Whiteman, *BB&T to Pay \$124 M in Fifth GA. Purchase of 1999*, AM. BANKER, Dec. 16, 1999, at 1.

one hundred branches.<sup>20</sup> BB&T began its spree with the acquisition of \$421 million First Citizen's Corp. of Newnan, GA.<sup>21</sup> The fact that this was only the first in a series of acquisitions might have been hinted at early on by the managing director of bank research at Credit Suisse First Boston when he stated, "[t]his deal provides them with no critical mass, *at least initially*."<sup>22</sup> BB&T followed up this deal just a few months later with its acquisition of \$1.7 billion First Liberty Financial Corp. of Macon.<sup>23</sup> First Liberty added close to forty branches in and around Savannah and Macon to the BB&T network.<sup>24</sup> BB&T topped this deal in July, however, with the addition of \$1.9 billion Premier Bancshares of Atlanta for \$639 million in stock.<sup>25</sup> This third Georgia acquisition of the year was BB&T's biggest since it acquired UCB in 1997.<sup>26</sup> The bank would tack on two more acquisitions before yearend, adding \$518 million Hardwick Holding Co. of Dalton, Georgia,<sup>27</sup> and \$419 million First Banking Co. of Southeast Georgia.<sup>28</sup>

In addition to the "Georgia spree," BB&T acquired several insurance agencies, investment banking firms, and banks in the mid-Atlantic region. BB&T's second major target market has been the Washington, D.C./Maryland region.<sup>29</sup> In fact, its activ-

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20. *See id.*

21. *See* Olaf de Senerpont Domis, *BB&T to Enter Red-Hot Atlanta with \$ 126M First Citizens Deal*, AM. BANKER, Jan. 28, 1999, at 3. The deal was completed in July of 1999. *See BB&T Completes Acquisition*, WALL ST. J., July 13, 1999, at A8.

22. *Id.* (emphasis added).

23. *See* Olaf de Senerpont Domis, *BB&T Continuing Its Foray Into Georgia with \$500 M Deal*, AM. BANKER, April 29, 1999, at 1. The acquisition of First Liberty was completed in November of 1999. *See BB&T - First Liberty Purchase*, WALL ST. J., Nov. 23 1999, at B6.

24. *See BB&T - First Liberty Purchase*, WALL ST. J., Nov. 23 1999, at B6.

25. *See* Dan Weil, *BB&T Paying \$639 Million To Bulk Up In Georgia*, AM. BANKER, July 29, 1999, at 1; *BB&T Plans to Buy Atlanta's Premier in a Stock Swap*, WALL ST. J., July 29, 1999, at B2.

26. *See id.*

27. *See* Louis Whiteman, *BB&T Unveils \$ 139M Deal In Ga., Its 4th There in '99*, AM. BANKER, November 18, 1999, at 30. Hardwick had nine branches in the northwest suburbs of Atlanta. *See id.*

28. *See* Louis Whiteman, *BB&T to Pay \$124M in Fifth Ga. Purchase of '99*, AM. BANKER, Dec. 16, 1999; *BB&T Corp*, WALL ST. J., December 16, 1999, at B2.

29. *See* Bill Atkinson, *In Expansive Mood, BB&T Spreads Name*, BALTIMORE SUN,

ity in Virginia and Maryland alone prompted the *Washington Post* to report that BB&T had "joined the North Carolina Invasion of the Washington region."<sup>30</sup> Notable among these additions was its purchase of \$1.1 billion Mason-Dixon Bancshares of Westminster, Maryland in January for just over a quarter billion dollars in stock,<sup>31</sup> and its acquisition of the investment firm of Scott & Stringfellow two months later.<sup>32</sup> The Richmond based investment firm will be operated separately from BB&T's in-house brokerage, but has been combined with Craige, Inc., another BB&T owned Virginia investment bank, specializing in municipal finance.<sup>33</sup> BB&T has supplemented these deals with the purchase of insurance agencies in Georgia, North Carolina, and Virginia, averaging over one acquisition a month during the first eight months of 1999.<sup>34</sup>

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Nov. 7, 1999, at 1D.

30. Jerry Knight, *Mason-Dixon Bancshares Outshines Internet Stocks*, WASHINGTON POST, Feb. 1, 1999, (Washington Business Magazine) at 28.

31. See Olaf de Senerpont Domis, *BB&T announces a Second Buyout Deal in 2 Days*, AM. BANKER, Jan. 29, 1999, at 1. Mason-Dixon also controls Carroll County Bank and Trust Co., Bank of Maryland, and Rose Shanis Financial Services. See *id.* BB&T offered a close to 40 percent premium above market to shareholders of Mason-Dixon. See Knight, *supra* note 29, at 28.

32. See Cheryl Winokur, *BB&T's New Broker-Dealer to Operate Independently*, AM. BANKER, May 10, 1999, at 10; *BB&T Completes Acquisition*, WALL ST. J., Mar. 29, 1999, at B7A.

33. See David Weidner, *BB&T Combines Two Va. Investment Banks*, AM. BANKER, May 7, 1999, at 6.

34. See Cheryl Winokur, *BB&T Buying Two Insurance Agencies in Ga.*, AM. BANKER, Sept. 3, 1999, at 20. BB&T acquired five insurance firms in Virginia alone by May of 1999. See Michael O'D. Moore, *BB&T Unveils 5th Va. Agency Deal of 1999*, AM. BANKER, May 28, 1999, at 7. BB&T's Georgia insurance acquisitions complement its bank acquisitions in terms of geography. Huffines-Russell is located in Alpharetta, a suburb of Atlanta, the epicenter of BB&T's explosion into the Georgia market. See Michael O'D. Moore, *BB&T Insurance Unit to Make First Georgia Acquisition*, AM. BANKER, Feb. 23, 1999, at 11. Ingram-McDaniel & Associates is located in Thomaston, closer to the Florida state line, and Macon Insurance Associates is located in Macon, the site of BB&T's third Georgia bank acquisition, First Liberty. See Cheryl Winokur, *BB&T Buying 2 Insurance Agencies in Ga.*, AM. BANKER, Sept. 3, 1999, at 20.

BB&T acquired MainStreet Financial Corp. See *BB&T Corp: Acquisition of MainStreet is Completed in Stock Swap*, WALL ST. J., Mar. 9, 1999, at B11F. BB&T also acquired the insurance firm of Givens & Williams. See *BB&T to Purchase Insurer*, WALL ST. J., April 20, 1999, at A6. In March it added Old Dominion Insurance Services. See *BB&T to Acquire Agency*, WALL ST. J., Mar. 16, 1999, at A6. The following month it added Matewan BancShares Inc. See *BB&T to Pay Less for Matewan*, WALL ST. J., April 28, 1999, at B13. The acquisition of Beam, Cooper, Gainey & Associates, Inc. of Morgan City, NC followed. See *BB&T Insurance Unit Purchase*, WALL ST. J.,

### B. East Coast Expansion of Wachovia

Wachovia Corporation also made several acquisitions during 1999. Doing its part to advance what seems to have been an outright assault on the booming Atlanta market by Winston-Salem banks, Wachovia purchased \$395 million B C Bankshares of Canton, Georgia, just north of Atlanta.<sup>35</sup>

Wachovia's biggest acquisition of late was not a bank, however, but full service brokerage Interstate/Johnson Lane.<sup>36</sup> The Wachovia/ILJ deal was approved by shareholders in January of 1999.<sup>37</sup> The acquisition of ILJ made Wachovia the sixteenth largest banking company in the United States.<sup>38</sup> The smooth integration of ILJ helped to pave the way for other 1999 acquisitions, as Wachovia, rather than suffering through a post-deal hangover, posted second-quarter earnings up almost twelve percent from second-quarter 1998.<sup>39</sup>

Two other Wachovia acquisitions, Offitbank Holdings, Inc. of New York and Barry, Evans, Josephs & Snipes of Charlotte, indicate that the bank may be trying to position itself to serve high income clients. Offitbank, which manages over eleven billion dollars in assets, is an investment firm that specializes in private banking for the ultra-wealthy; over half of its clients have at least \$30 million invested.<sup>40</sup> Barry, Evans, Josephs & Snipes, a Charlotte insurance firm, is also noted for its high-end clientele. Each of these firms will continue to operate as free-standing enti-

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July 15, 1999, at C15.

According to a report in *The Baltimore Sun*, BB&T has acquired 42 community banks and savings and loans, 32 insurance agencies, and 12 non-bank financial services companies in the last 10 years. See Bill Atkinson, *In Expansive Mood, BB&T Spreads Name: Growth*, BALTIMORE SUN, Nov. 7, 1999, at 1D.

35. See Dan Weil, *Wachovia Buying Ga. Bank for \$134 M*, AM. BANKER, Oct. 8, 1999, at 4.

36. See Pamela L Moore, *Brokerage's shareholders accept Wachovia buyout*, CHARLOTTE OBSERVER, Jan. 27, 1999, at 2D.

37. See *id.*

38. See *id.*

39. See *id.* This was due in part to the favorable impact of ILJ's steady fee income. See *id.*

40. See Katharine Fraser, *Wachovia in \$200M Deal For N.Y. Investment Firm*, AM. BANKER, May 14, 1999, at 22.



ties. In some ways, this strategy is comparable to Toyota or Nissan's introduction of separate, high-end lines such as Lexus or Infiniti respectively.

### C. Centura/Triangle Merger

The biggest story of 1999 involving medium-sized banks was Centura Banks, Inc.'s acquisition of Triangle Bancorp.<sup>41</sup> Centura, based in Rocky Mount, announced on August 23<sup>rd</sup> that it would acquire Raleigh-based Triangle Bancorp in a stock-for-stock deal.<sup>42</sup> The acquisition boosted Centura's customer base to over 80,000 households, and its total holdings to over \$11.1 billion, making the bank the sixth largest within the State of North Carolina.

Both the strength and weakness of the Centura deal lies in the fact that it is an in-market merger. This will give the resulting bank a strong foundation in the rapidly expanding Raleigh/Cary/Research Triangle Park area.<sup>43</sup> At the same time, it will require a great deal of trimming in order to come within the parameters of antitrust concentration regulations. In fact, Centura will likely trim about \$300 million in deposits in order to comply with antitrust regulations. The resulting bank plans to reduce overhead by cutting both branches and personnel.<sup>44</sup> The former will be achieved by closing the smaller of any overlapping branches. As is often the case, the divestiture of deposit accounts and branches will have a trickle-down effect on smaller banks that desire to expand their branch network. NewSouth Bancorp of Washington, Waccamaw of Whiteville, and Gateway Bank & Trust Co. of Elizabeth all announced plans to purchase divested

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41. Triangle also owns Bank of Mecklenburg.

42. See Danielle Herubin, *Centura to buy rival, step up*, CHARLOTTE OBSERVER, Aug. 24, 1999, at 1D.

43. See Louis Whiteman, *N.C.'s Centura Takes Big Step with \$ 608 M In-State Deal*, AM. BANKER, Aug. 24, 1999, at 1. The deal will double Centura's deposits in the Raleigh area. See *id.*

44. Centura hopes to accomplish the latter primarily through attrition. See Herubin, *supra* note 42.

Triangle branches at the end of 1999.<sup>45</sup>

This acquisition was probably the most significant North Carolina deal of the year, in a year when First Union and Bank of America took a break from their typical acquisitive activity. There were, however, several other important North Carolina transactions over the course of the year. First Bancorp of Troy purchased First Savings Bancorp of Southern Pines.<sup>46</sup> In November of 1999, First Charter Corporation announced that it would purchase Carolina First Bancshares for \$260 million in stock.<sup>47</sup> In addition to this activity, the North Carolina Commissioner of Banks chartered five new banks in 1999: 1<sup>st</sup> State Bank, FNB Southeast, First Trust Bank, Paragon Commercial Bank, and Trinity Bank.<sup>48</sup>

### III. INTERNET BANKING

1999 has also marked the continued entry of medium-sized financial institutions into the Internet market.<sup>49</sup> Over the course of 1999, a presence on the Internet has moved from novelty to necessity. Even as recently as 1998, North Carolina banks were not swept up in "the tidal wave of success that other cyberspace businesses experienced."<sup>50</sup> Internet banking, however, ap-

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45. See Alan Kline, *Three Buyers Found for N.C. Divestitures*, AM. BANKER, Dec. 16, 1999, at 4. NewSouth plans to acquire six Triangle branches while Gateway plans to buy two. See *id.* Waccamaw plans to purchase the Triangle branch in Chadbourne. See *id.*

46. See Matt Andrejczak, *N.C. Bank, Thrift Agree to \$101 M In-Market Deal*, AM. BANKER, Dec. 17, 1999, at 6. The deal makes First Bancorp the tenth largest bank in the state. See *id.*

47. See Louis Whiteman, *A Pricey Merger on its Plate, N.C. Bank Hungry for More*, AM. BANKER, Nov. 18, 1999, at 8. Recent speculation has turned to a CCB/First Charter merger. See Louis Whiteman, *N.C.'s Centura Takes Big Step with \$ 608 M In-State Deal*, AM. BANKER, Aug. 24, 1999, at 1.

48. See *North Carolina State Chartered Banks* (visited Feb. 18, 2000) <<http://www.banking.state.nc.us/bklist.htm#xmarks>>.

49. See Paul Wenske, *Ease of Web banking woos busy patrons from ATMs*, CHARLOTTE OBSERVER, Jan 4, 2000, at D4. This includes both web sites for use by "brick and mortar" customers, and free-standing Internet banks, which exist only in cyberspace. See *id.* See also John Douglas, *Cyberbanking: Legal and Regulatory Considerations for Banking Organizations*, 4 N.C. BANKING INST. 57 (2000).

50. Lara L. Spencer, *Expansion and Innovation Predominant Themes among*

pears to have caught on in 1999, as a number of new Internet banking sites have been launched. While Internet banking was formerly the domain of the mega-banks, medium-sized institutions are discovering they can compete in the Internet market just as easily as larger institutions. In fact, many banks are discovering that it is necessary to launch Internet banking, whether they are ready or not, just to remain competitive. As Michael Patterson, then CEO of Triangle Bancorp said of Internet banking, "[s]ome investments are made to be defensive . . . . We know we won't get a payback for a couple of years, but we have to offer it."<sup>51</sup>

North Carolina banks made development of the Internet market a priority during 1999. First Union earmarked \$150 million for development of its Internet services.<sup>52</sup> Wachovia launched an entirely new division in 1999 to implement "an Internet financial services strategy."<sup>53</sup> Even normally conservative First Citizen's launched an ad campaign for its online banking web-site,<sup>54</sup> signifying that Internet banking is now officially "mainstream."<sup>55</sup>

While this type of national exposure is one of the primary benefits of Internet banking, it also creates problems.<sup>56</sup> The first of these problems arises when the Community Reinvestment Act, a law which is utterly dependent on the notion that a bank serves a certain community or set of communities with finite borders, is

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North Carolina Financial Institutions in 1998, 3 N.C. BANKING INST. 125, 144 (1999). See generally Kimbrelly Kegler, Note, *Electronic Banking: Security, Privacy, and CRA Compliance*, 2 N.C. BANKING INST. 426 (1998).

51. See Marilyn Seymann, *To Make Technology Pay Off, Answer Some Hard Questions*, AM. BANKER, Jan. 22, 1999, at 6 (discussing, among other things, Triangle Bancorp's investment in Internet banking).

52. See Rick Brooks, *First Union Reduces Profit Forecast a Third Time, Sending Stock Down*, WALL ST. J., May 26, 1999, at B17.

53. Ross Snel, *Wachovia's Internet Efforts Combined in a New Division*, AM. BANKER, Mar. 11, 1999, at 16. The new division will oversee Internet, ATM, card products (excluding credit cards) and "interactive kiosks." See *id.*

54. See FIRST CITIZENS BANK, (visited Mar. 1, 2000) <<http://www.firstcitizens.com>>.

55. First Citizen's website has been advertised in such national publications as *Sports Illustrated*. See SPORTS ILLUSTRATED, Dec 6, 1999, at 31.

56. This is especially true when the financial services are offered by an "Internet-only" bank, rather than as an adjunct to a traditional "brick and mortar" operation.

applied to Internet Banks that exist everywhere and nowhere.<sup>57</sup> Closely related to this issue is the question of whether the courts, regulatory agencies, or Congress should decide how CRA applies to Internet banks.<sup>58</sup> Another issue for Internet banks is that of "cannibalization" of business from the Internet Bank's parent bank.<sup>59</sup>

#### IV. EMERGING MARKETS

While the Internet is probably doing more to change how the business of banking is done, it is not the only new direction in which banks are moving. The final year of the 1900's brought further expansion into new product and geographic markets. The market for electronic bill presentment, a new and very promising field, continued to emerge in 1999. Electronic bill presentment is a system (not entirely unlike an ATM network) that allows firms which bill customers to connect directly to those customers in order to post bills and collect payments.<sup>60</sup> After launching a pilot program in March of 1999, Bank of America announced that it planned to offer an electronic bill presentment service to its California customers by year-end.<sup>61</sup>

First Union has taken a lead in the development of this technology as well. The Charlotte bank plans to distribute a device called a Digipass 300 to some 20,000 of its customers.<sup>62</sup> The device is used to perform secure transactions on the Inter-

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57. See William M. Keyser, Note, *21<sup>st</sup> Century CRA: How Internet Banks are Causing Regulators to Rethink the Community Reinvestment Act*, 4 N.C. BANKING INST. 545 (2000).

58. Thus, not only is there disagreement over what the answer to the problem should be, there is disagreement over *who* should be attempting to formulate that answer.

59. See Christian N. Watson, Note, *The Growth of Internet-only Banks: Brick and Mortar Branches are Feeling the "Byte"*, 4 N.C. BANKING INST. 345 (2000).

60. See Chris Costanzo, *B of A to Offer Electronic Presentment by Yearend*, AM. BANKER, Oct. 12, 1999, at 21.

61. See *id.* Bank of America has offered similar services to California customers since 1983. See *id.*

62. See Olaf de Senerpont Domis, *Secure Transaction Device for 20,000 First Union Clients*, AM. BANKER, Jan. 21, 1999, at 20.

net, using a public key encryption system.<sup>63</sup> The bank is also currently engaged in a joint venture<sup>64</sup> called Spectrum, with Chase Manhattan and Wells Fargo & Co.<sup>65</sup> Spectrum has added several other financial institutions over the course of 1999, notably Wachovia and Mellon Financial.<sup>66</sup> The Spectrum service is expected to be available about the same time as the Bank of America service.<sup>67</sup> It is likely that banks will continue to expand their efforts to promote electronic bill presentment, because they are established financial intermediaries with much of the necessary technological infrastructure in place, and also because they likely find attractive the steady fee income that can be generated by services like bill presentment.

The development of geographic markets has included re-expansion into Latin and South America.<sup>68</sup> These are markets that were, in many instances, unkind to banks during the 1980's.<sup>69</sup> However, as the pan-American economy has grown more intertwined, and as South American economies are booming, banks have adjusted their focus accordingly.<sup>70</sup> The results have been astonishing. Citigroup's Brazilian affiliate earned a ninety-two percent return on equity during the first two quarters of 1999, and Chase Manhattan's Brazilian affiliate earned a

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63. For more information on public key cryptography, an essential tool for e-transactions, see Tara C. Hogan, Note, *Now that the Floodgates have Opened, Why Haven't Bank's Rushed Into the Certification Authority Business?*, 4 N.C. BANKING INST. 417 (2000).

64. See Jeffrey B. Kaufman & Hugh M. O'Neill, *The Termination of Joint Ventures, How Does the Dance End?*, 4 N.C. BANKING INST. 287 (2000).

65. See Costanzo, *supra* note 59.

66. See Carol Power & Ross Snel, *Eleven More Banks Join Spectrum Biller Network*, AM. BANKER, Dec. 9, 1999, at 6. Wachovia has also become an equity partner in Small Value Payments Co., a spin-off of the New York Clearing House specializing in Electronic Check Presentment (ECP). See Steven Marjanovic, *Electronic Presentment Clearing House Grows*, AM. BANKER, March 11, 1999, at 16.

67. See Costanzo, *supra* note 59.

68. See James R. Kraus, *Latin American Profit Surge Spurring U.S. Banks' Plans*, AM. BANKER, Nov. 22, 1999, at 4. See generally Rachel Steinwender, Note, *Brazil and the Financial Crisis: An Examination of the Effect from Charlotte to Sao Paolo*, 3 N.C. BANKING INST. 411 (1999).

69. See Jerry W. Markham, *Banking Regulation: Its History and Future*, 4 N.C. BANKING INST. 221, 244 n. 142 (2000).

70. See Kraus, *supra* note 66, at 4.

whopping 200 percent.<sup>71</sup> First Union and Bank of America have likewise stepped up their involvement in Latin and South America, the latter entering into an agreement with Bradesco of Brazil to process Brazilian credit card billings.<sup>72</sup>

There has also been a recent trend toward development of the "academic" market. Wachovia became the "partner bank" of the University of North Carolina at Chapel Hill's "One Card" system.<sup>73</sup> Though many universities use stored value cards for on-campus transactions, some are starting to affiliate with "real world" financial institutions. This sort of arrangement has some potential advantages for financial institutions: first, it instantly increases the number of deposit accounts held by the bank; second, it provides a self-contained community to test market new products; and third, it provides banks with an opportunity to instill long-term brand loyalty in large numbers of first-time financial services customers. The extent to which the students (or faculty) of universities and colleges striking deals of this kind with banks benefit, however, remains to be seen.

## V. CONCLUSION

And 1999 has, in many ways, left us with the feeling that much remains to be seen.<sup>74</sup> The past year saw the passage of federal legislation that changed many of the rules that financial services organizations played by during the 1900's. We have, however, seen only the very beginning of the changes that Gramm-Leach-Bliley may precipitate over the next twenty years. Likewise, the effects of North Carolina's predatory lending statute, though certainly less far reaching, are nevertheless, uncertain at this point. Much remains to be seen as to how successful

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71. *See id.*

72. *See id.*

73. *See* Richard R. Holley, III, Note, *One-Card 101: Wachovia Hits the Pit and Becomes the Partner Bank of the UNC One Card*, 4 N.C. BANKING INST. 371 (2000); Miriam Kreinin Souccar, *Wachovia Adding Banking to UNC Campus Cards*, AM. BANKER, Aug. 16, 1999, at 8.

74. Indeed, it is well settled that *everything*, save death and taxes, remains to be seen.

Internet banks will become. Will the Internet be the “second industrial revolution” as one television ad suggests?

Much has happened—or more accurately started to happen—but 1999, like the opening chapters of a well spun mystery, has left us with more questions than answers.

TODD HAMMOND EVESON