

SIMMONS FIRST NATIONAL CORP

Form 10-K

February 29, 2016

**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-K**

(Mark One)

Annual Report Pursuant to Section 13 or 15(d) of the Exchange Act of 1934

**For the fiscal year ended: December 31, 2015**

or

Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

**Commission file number 0-6253**

**SIMMONS FIRST NATIONAL CORPORATION**

(Exact name of registrant as specified in its charter)

**Arkansas**

(State or other jurisdiction of  
incorporation or organization)

**71-0407808**

(I.R.S. employer  
identification No.)

**501 Main Street, Pine Bluff, Arkansas 71601**

(Address of principal executive offices) (Zip Code)

**(870) 541-1000**

(Registrant's telephone number, including area code)

**Securities registered pursuant to Section 12(b) of the Act:**

**Common Stock, \$0.01 par value The NASDAQ Global Select Market®**  
(Title of each class) (Name of each exchange on which registered)

**Securities registered pursuant to Section 12(g) of the Act: None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.  
Yes No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge in definitive proxy or in information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer, or a smaller reporting company. See definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer

Accelerated filer

Non-accelerated filer (Do not check if a smaller reporting company) Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act.). Yes No

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The aggregate market value of the Registrant's Common Stock, par value \$0.01 per share, held by non-affiliates on June 30, 2015, was \$1,290,181,611 based upon the last trade price as reported on the NASDAQ Global Select Market® of \$46.68.

The number of shares outstanding of the Registrant's Common Stock as of February 3, 2016, was 30,364,129.

Part III is incorporated by reference from the Registrant's Proxy Statement relating to the Annual Meeting of Shareholders to be held on April 19, 2016.

## Introduction

The Company has chosen to combine our Annual Report to Shareholders with our Form 10-K, which is a document that U.S. public companies file with the Securities and Exchange Commission every year. Many readers are familiar with “Part II” of the Form 10-K, as it contains the business information and financial statements that were included in the financial sections of our past Annual Reports. These portions include information about our business that we believe will be of interest to investors. We hope investors will find it useful to have all of this information available in a single document.

The Securities and Exchange Commission allows us to report information in the Form 10-K by “incorporated by reference” from another part of the Form 10-K, or from the proxy statement. You will see that information is “incorporated by reference” in various parts of our Form 10-K.

A more detailed table of contents for the entire Form 10-K follows:

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## **CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS**

Certain statements contained in this Annual Report may not be based on historical facts and are “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. These forward-looking statements may be identified by reference to a future period(s) or by the use of forward-looking terminology, such as “anticipate,” “estimate,” “expect,” “foresee,” “believe,” “may,” “might,” “will,” “would,” “could” or “intend,” future or conditional verb tenses, and variations or negatives of such terms. These forward-looking statements include, without limitation, those relating to the Company’s future growth, revenue, assets, asset quality, profitability and customer service, critical accounting policies, net interest margin, non-interest revenue, market conditions related to the Company’s stock repurchase program, allowance for loan losses, the effect of certain new accounting standards on the Company’s financial statements, income tax deductions, credit quality, the level of credit losses from lending commitments, net interest revenue, interest rate sensitivity, loan loss experience, liquidity, capital resources, market risk, earnings, effect of pending litigation, acquisition strategy, legal and regulatory limitations and compliance and competition.

These forward-looking statements involve risks and uncertainties, and may not be realized due to a variety of factors, including, without limitation: the effects of future economic conditions, governmental monetary and fiscal policies, as well as legislative and regulatory changes; the risks of changes in interest rates and their effects on the level and composition of deposits, loan demand and the values of loan collateral, securities and interest sensitive assets and liabilities; the costs of evaluating possible acquisitions and the risks inherent in integrating acquisitions; the effects of competition from other commercial banks, thrifts, mortgage banking firms, consumer finance companies, credit unions, securities brokerage firms, insurance companies, money market and other mutual funds and other financial institutions operating in our market area and elsewhere, including institutions operating regionally, nationally and internationally, together with such competitors offering banking products and services by mail, telephone, computer and the Internet; the failure of assumptions underlying the establishment of reserves for possible loan losses, fair value for covered loans, covered other real estate owned and FDIC indemnification asset; and those factors set forth under Item 1A. Risk-Factors of this report and other cautionary statements set forth elsewhere in this report. Many of these factors are beyond our ability to predict or control. In addition, as a result of these and other factors, our past financial performance should not be relied upon as an indication of future performance.

We believe the expectations reflected in our forward-looking statements are reasonable, based on information available to us on the date hereof. However, given the described uncertainties and risks, we cannot guarantee our future performance or results of operations and you should not place undue reliance on these forward-looking statements. We undertake no obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise, and all written or oral forward-looking statements attributable to us are expressly qualified in their entirety by this section.

## **PART I**

### **ITEM 1. BUSINESS**

## **Company Overview**

Simmons First National Corporation (the “Company”) is a financial holding company registered under the Bank Holding Company Act of 1956, as amended. The Company is headquartered in Arkansas with total assets of \$7.6 billion, loans of \$4.9 billion, deposits of \$6.1 billion and equity capital of \$1.1 billion as of December 31, 2015. We conduct banking operations through 149 branches, or “financial centers,” located in communities throughout Arkansas, Kansas, Missouri and Tennessee.

We seek to build shareholder value by (i) focusing on strong asset quality, (ii) maintaining strong capital (iii) managing our liquidity position, (iv) improving our operational efficiency (v) opportunistically growing our business, both organically and through acquisitions of financial institutions.

## **Subsidiary Bank**

Our subsidiary bank, Simmons First National Bank (“Simmons Bank” or “lead bank”), is a national bank which has been in operation since 1903. Simmons First Trust Company N.A., a wholly-owned subsidiary of Simmons Bank, performs the trust and fiduciary business operations for Simmons Bank. Simmons First Investment Group, Inc., a wholly-owned subsidiary of Simmons Bank, is a broker-dealer registered with the SEC and a member of the Financial Industry Regulatory Authority and performs the broker-dealer and retail investment operations for Simmons Bank. Simmons First Capital Management, Inc., a wholly-owned subsidiary of Simmons Bank, is a Registered Investment Advisor. Simmons First Insurance Services, Inc., is an insurance agency providing life, auto, home, business and commercial insurance coverage. SF Investments, Inc., a wholly-owned subsidiary of Simmons Bank, invests in and manages the capital structure of its REIT subsidiaries.

Simmons Bank and its subsidiaries provide complete banking services to individuals and businesses throughout the market areas they serve. Simmons Bank offers consumer, real estate and commercial loans, checking, savings and time deposits. We have also developed through our experience and scale and through acquisitions, specialized products and services that are in addition to those offered by the typical community bank. Those products include credit cards, trust services, investments, agricultural finance lending, equipment lending, insurance, consumer finance and SBA lending.

### **Community Bank Strategy**

Historically, we utilized separately chartered community banks, supported by our lead bank to provide full service banking products and services across our footprint. On March 5, 2014, we announced the planned consolidation of our six smaller subsidiary banks into Simmons Bank. The subsidiary consolidation was completed in August 2014. We made the decision to consolidate in order to effectively meet the increased regulatory burden facing banks, to reduce certain operating costs and more efficiently perform operational duties. After the charter consolidation and 2015 mergers, Simmons Bank operates as three separate regions. Below is a listing of our regions:

Region	Headquarters
Arkansas Region	Pine Bluff, Arkansas
Kansas/Missouri Region	Springfield, Missouri
Tennessee Region	Union City, Tennessee

### **Growth Strategy**

Over the past 26 years, as we have expanded our markets and services, our growth strategy has evolved and diversified. We have used varying acquisition and internal branching methods to enter key growth markets and increase the size of our footprint.

Since 1990 we have completed 11 whole bank acquisitions, 5 bank branch deals, 1 bankruptcy (363) acquisition, 4 FDIC failed bank acquisitions and 4 Resolution Trust Corporation failed thrift acquisitions. These acquisitions added a total of 125 branches.

In December 2009, we completed a secondary stock offering by issuing a total of 3,047,500 shares of common stock, including the over-allotment, at a price of \$24.50 per share, less underwriting discounts and commissions. The net proceeds of the offering after deducting underwriting discounts and commissions and offering expenses were approximately \$70.5 million. The additional capital positioned us to take advantage of unprecedented acquisition opportunities through FDIC-assisted transactions of failed banks.



In 2010, we expanded outside the borders of Arkansas by acquiring two failed institutions through FDIC-assisted transactions. The first was a \$100 million failed bank located in Springfield, Missouri and the second was a \$400 million failed thrift located in Olathe, Kansas. On both transactions, we entered into a loss share agreement with the FDIC, which provided significant protection of 80% of covered assets. As part of the acquisitions, we recognized a pre-tax bargain purchase gain of \$3.0 million and \$18.3 million, respectively, on the Missouri and Kansas transactions.

In 2012, we acquired two additional failed institutions through FDIC-assisted transactions. The first was a \$300 million failed bank located in St. Louis, Missouri and the second was a \$200 million failed bank located in Sedalia, Missouri. On both transactions, we again entered into a loss share agreement with the FDIC that provided 80% protection of a significant portion of the assets. As part of the acquisitions, we recognized a pre-tax bargain purchase gain of \$1.1 million and \$2.3 million, respectively, on the Missouri transactions.

In 2013, we completed the acquisition of Metropolitan National Bank (“Metropolitan” or “MNB”) from Rogers Bancshares, Inc. (“RBI”). The purchase was completed through an auction of the MNB stock by the U. S. Bankruptcy Court as a part of the Chapter 11 proceeding of RBI. MNB, which was headquartered in Little Rock, Arkansas, served central and northwest Arkansas and had total assets of \$950 million. Upon completion of the acquisition, MNB and our Rogers, Arkansas chartered bank, Simmons First Bank of Northwest Arkansas were merged into our lead bank. As an in market acquisition, MNB had significant branch overlap with our existing branch footprint. We completed the systems conversion for MNB on March 21, 2014 and simultaneously closed 27 branch locations that had overlapping footprints with other locations.

On August 31, 2014, we completed the acquisition of Delta Trust & Banking Corporation (“Delta Trust”), including its wholly-owned bank subsidiary Delta Trust & Bank. Also headquartered in Little Rock, Delta Trust had total assets of \$420 million. The acquisition further expanded Simmons Bank’s presence in south, central and northwest Arkansas and allows us the opportunity to provide services that have not previously been offered with the addition of Delta Trust’s insurance agency and securities brokerage service. We merged Delta Trust & Bank into Simmons Bank and completed the systems conversion on October 24, 2014. At that time, we also closed 4 branch locations with overlapping footprints.

On March 4, 2014, the Company filed a shelf registration statement with the Securities and Exchange Commission (“SEC”). Subsequently, on June 18, 2014, we filed Amendment No. 1 to the shelf registration statement. When declared effective, the shelf registration statement will allow us to raise capital from time to time, up to an aggregate of \$300 million, through the sale of common stock, preferred stock, stock warrants, stock rights or a combination thereof, subject to market conditions. Specific terms and prices are determined at the time of any offering under a separate prospectus supplement that the Company is required to file with the SEC at the time of the specific offering.

On February 27, 2015, we completed the acquisition of Liberty Bancshares, Inc. (“Liberty”), including its wholly-owned bank subsidiary Liberty Bank. Liberty was headquartered in Springfield, Missouri, served southwest Missouri and had total assets of \$1.1 billion. The acquisition further enhanced Simmons Bank’s presence not only in southwest Missouri but also the St. Louis and Kansas City metropolitan areas. The acquisition also allows us the opportunity to provide services that have not previously been offered in these areas such as trust and securities brokerage services. In addition, Liberty’s expertise in Small Business lending will enhance our commercial offerings throughout our geographies. We merged Liberty Bank into Simmons Bank and completed the systems conversion April 24, 2015.

Also on February 27, 2015, we completed the acquisition of Community First Bancshares, Inc. (“Community First”), including its wholly-owned bank subsidiary First State Bank. Community First was headquartered in Union City, Tennessee, served customers through Tennessee and had total assets of \$1.9 billion. The acquisition expanded our footprint into Tennessee and allows us the opportunity to provide additional services to customers in this area and expand our community banking strategy. In addition, Community First’s expertise in Small Business and consumer lending will benefit our customers across each region. We merged First State Bank into Simmons Bank and completed the systems conversion September 4, 2015.

In September 2015, we entered into an agreement with the FDIC to terminate all loss share agreements which were entered into in 2010 and 2012 in conjunction with the Company’s acquisition of substantially all of the assets (“covered assets”) and assumption of substantially all of the liabilities of four failed banks in FDIC-assisted transactions. Under the early termination, all rights and obligations of the Company and the FDIC under the FDIC loss share agreements, including the clawback provisions and the settlement of loss share and expense reimbursement claims, have been resolved and terminated.

Under the terms of the agreement, the FDIC made a net payment of \$2,368,000 to Simmons Bank as consideration for the early termination of the loss share agreements. The early termination was recorded in the Company’s financial

statements by removing the FDIC indemnification asset, receivable from FDIC, the FDIC true-up liability and recording a one-time, pre-tax charge of \$7,476,000. As a result, the Company reclassified loans previously covered by FDIC loss share to loans acquired, not covered by FDIC loss share. Foreclosed assets previously covered by FDIC loss share were reclassified to foreclosed assets not covered by FDIC loss share.

On October 29, 2015, we completed the acquisition of Ozark Trust & Investment Corporation (“Ozark Trust”), including its wholly-owned non-deposit trust company, Trust Company of the Ozarks. Headquartered in Springfield, Missouri, Ozark Trust had over \$1 billion in assets under management and provided a wide range of financial services for its clients including investment management, trust services, IRA rollover or transfers, successor trustee services, personal representatives and custodial services. As our first acquisition of a fee-only financial firm, Ozark Trust provides a new wealth management capability that can be leveraged across the Company’s entire geographic footprint.

### **Acquisition Strategy**

Merger and Acquisition activities are an important part of the Company’s growth strategy. We intend to focus our near term acquisition strategy on traditional acquisitions. We continue to believe that the challenging economic environment combined with more restrictive bank regulatory reforms will cause many financial institutions to seek merger partners in the near to intermediate future. We also believe our community banking philosophy, access to capital and successful acquisition history position us as a purchaser of choice for community banks seeking a strong partner.

We expect that our target areas for acquisitions will continue to be banks operating in growth markets within the existing footprint of Arkansas, Kansas, Missouri and Tennessee markets as well as banks operating in identified expansion markets including Oklahoma, Texas and other areas. In addition, we will pursue financial service companies with specialty lines of business and branch acquisitions within the existing markets.

As consolidations continue to unfold in the banking industry, the management of risk is an important consideration in how the Company evaluates and consummates those transactions. The senior management teams of both our parent company and lead bank have had extensive experience during the past twenty-six years in acquiring banks, branches and deposits and post-acquisition integration of operations. We believe this experience positions us to successfully acquire and integrate banks.

The process of merging or acquiring two banking organizations is extremely complex; it requires a great deal of time and effort from both buyer and seller. The business, legal, operational, organizational, accounting, and tax issues all must be addressed if the merger or acquisition is to be successful. Throughout the process, valuation is an important input to the decision-making process, from initial target analysis through integration of the entities. Merger and acquisition strategies are vitally important in order to derive the maximum benefit out of a potential deal.

Strategic reasons with respect to negotiated community bank acquisitions include:

Potentially retaining the target institution's senior management and providing them with an appealing level of autonomy post-integration. We intend to continue to pursue negotiated community bank acquisitions and we believe that our history with respect to such acquisitions has positioned us as an acquirer of choice for community banks. We encourage acquired community banks, their boards and associates to maintain their community involvement, while empowering the banks to offer a broader array of financial products and services. We believe this approach leads to enhanced profitability after the acquisition.

Taking advantage of future opportunities that can be exploited when the two companies are combined. Companies need to position themselves to take advantage of emerging trends in the marketplace.

One company may have a major weakness (such as poor distribution or service delivery) whereas the other company has some significant strength. By combining the two companies, each company fills-in strategic gaps that are essential for long-term survival.

Acquiring human resources and intellectual capital can help improve innovative thinking and development within the company.

Acquiring a regional or multi-state bank can provide the Company with access to emerging/established markets and/or increased products and services.

## **Loan Risk Assessment**

As part of our ongoing risk assessment, the Company utilizes credit policies and procedures, internal credit expertise and several internal layers of review to analyze risk. The internal layers of ongoing review include Regional Chairmen, Regional Senior Credit Officers, Community Presidents, regional loan committees, Senior Internal Loan Committee and Director's Loan Committee. Additionally, the Company has an Asset Quality Review Committee of management that meets quarterly to review the adequacy of the allowance for loan losses. The Committee reviews the status of past due, non-performing and other impaired loans, reserve ratios, and additional performance indicators for its lead bank. The appropriateness of the allowance for loan losses is determined based upon the aforementioned performance factors, and provision adjustments are made accordingly.

The Board of Directors reviews the adequacy of its allowance for loan losses on a monthly basis giving consideration to past due loans, non-performing loans, other impaired loans, and current economic conditions. Our loan review department monitors loan information monthly. In order to verify the accuracy of the monthly analysis of the allowance for loan losses, the loan review department performs a detailed review of each region's loan files on a semi-annual basis. Additionally, we have instituted a Special Asset Committee for the purpose of reviewing criticized loans in regard to collateral adequacy, workout strategies and proper reserve allocations.

The Simmons Bank Board of Directors has delegated oversight of all acquired assets to the Acquired Asset Loan Committee, comprised of the Corporate CEO, President and an Executive Vice President, along with several Simmons Bank executives. The Board authorizes the Committee to transact loan origination, renewal and workout procedures relative to acquisitions.

### **Competition**

There is significant competition among commercial banks in our various market areas. In addition, we also compete with other providers of financial services, such as savings and loan associations, credit unions, finance companies, securities firms, insurance companies, full service brokerage firms and discount brokerage firms. Some of our competitors have greater resources and, as such, may have higher lending limits and may offer other services that we do not provide. We generally compete on the basis of customer service and responsiveness to customer needs, available loan and deposit products, the rates of interest charged on loans, the rates of interest paid for funds, and the availability and pricing of trust and brokerage services.

## Principal Offices and Available Information

Our principal executive offices are located at 501 Main Street, Pine Bluff, Arkansas 71601, and our telephone number is (870) 541-1000. We also have corporate offices in Little Rock, Arkansas. We maintain a website at <http://www.simmonsfirst.com>. On this website under the section "Investor Relations", we make our filings with the Securities and Exchange Commission available free of charge, along with other Company news and announcements.

## Employees

As of December 31, 2015, the Company and its subsidiaries had approximately 1,946 full time equivalent employees. None of the employees is represented by any union or similar groups, and we have not experienced any labor disputes or strikes arising from any such organized labor groups. We consider our relationship with our employees to be good.

## Executive Officers of the Company

The following is a list of all executive officers of the Company. The Board of Directors elects executive officers annually.

NAME	AGE	POSITION	YEARS SERVED
George A. Makris, Jr.	59	Chairman and Chief Executive Officer	3
Robert A. Fehlman	51	Senior Executive Vice President, Chief Financial Officer and Treasurer	27
Marty D. Casteel	64	Senior Executive Vice President	27
David W. Garner	46	Executive Vice President, Controller and Chief Accounting Officer	18
Barry K. Ledbetter	53	Executive Vice President and Chief Banking Officer	30
Steven C. Wade	60	Executive Vice President and Chief Credit Officer	14
Patrick A. Burrow	62	Executive Vice President and General Counsel	1
Stephen C. Massanelli	60	Executive Vice President and Organizational Development	1
F. Christian Dunn	56	Executive Vice President, Regulatory Affairs and Risk Strategy	< 1



**Board of Directors of the Company**

The following is a list of the Board of Directors of the Company as of December 31, 2015, along with their principal occupation.

NAME	PRINCIPAL OCCUPATION
George A. Makris, Jr.	Chairman and Chief Executive Officer Simmons First National Corporation
David L. Bartlett <sup>(1)</sup>	President Simmons First National Corporation
Jay D. Burchfield	Financial Services Executive (retired)
William E. Clark, II	Chairman and Chief Executive Officer Clark Contractors, LLC
Steven A. Cossé	Chief Executive Officer (retired) Murphy Oil Corporation
Mark C. Doramus	Chief Financial Officer Stephens, Inc.
Edward Drilling	President AT&T Arkansas
Eugene Hunt	Attorney Hunt Law Firm
Christopher R. Kirkland	Principal Anchor Investments, LLC
W. Scott McGeorge	President Pine Bluff Sand and Gravel Company
Joe D. Porter	President Akin Porter Produce, Inc.
Harry L. Ryburn	Orthodontist (retired)
Robert L. Shoptaw	Chairman of the Board Arkansas black Cross and black Shield

<sup>(1)</sup> On January 15, 2016, David L. Bartlett retired as President and Chief Banking Officer of the Company and as Director.



## **SUPERVISION AND REGULATION**

### **The Company**

The Company, as a bank holding company, is subject to both federal and state regulation. Under federal law, a bank holding company generally must obtain approval from the Board of Governors of the Federal Reserve System ("FRB") before acquiring ownership or control of the assets or stock of a bank or a bank holding company. Prior to approval of any proposed acquisition, the FRB will review the effect on competition of the proposed acquisition, as well as other regulatory issues.

The federal law generally prohibits a bank holding company from directly or indirectly engaging in non-banking activities. This prohibition does not include loan servicing, liquidating activities or other activities so closely related to banking as to be a proper incident thereto. Bank holding companies, including Simmons First National Corporation, which have elected to qualify as financial holding companies, are authorized to engage in financial activities. Financial activities include any activity that is financial in nature or any activity that is incidental or complimentary to a financial activity.

As a financial holding company, we are required to file with the FRB an annual report and such additional information as may be required by law. From time to time, the FRB examines the financial condition of the Company and its subsidiaries. The FRB, through civil and criminal sanctions, is authorized to exercise enforcement powers over bank holding companies (including financial holding companies) and non-banking subsidiaries, to limit activities that represent unsafe or unsound practices or constitute violations of law.

We are subject to certain laws and regulations of the state of Arkansas applicable to financial and bank holding companies, including examination and supervision by the Arkansas Bank Commissioner. Under Arkansas law, a financial or bank holding company is prohibited from owning more than one subsidiary bank, if any subsidiary bank owned by the holding company has been chartered for less than five years and, further, requires the approval of the Arkansas Bank Commissioner for any acquisition of more than 25% of the capital stock of any other bank located in Arkansas. No bank acquisition may be approved if, after such acquisition, the holding company would control, directly or indirectly, banks having 25% of the total bank deposits in the state of Arkansas, excluding deposits of other banks and public funds.

Federal legislation allows bank holding companies (including financial holding companies) from any state to acquire banks located in any state without regard to state law, provided that the holding company (1) is adequately capitalized, (2) is adequately managed, (3) would not control more than 10% of the insured deposits in the United States or more than 30% of the insured deposits in such state, and (4) such bank has been in existence at least five years if so required by the applicable state law.

### **Subsidiary Bank**

During the fourth quarter of 2010, the Company realigned the regulatory oversight for its affiliate banks in order to create efficiencies through regulatory standardization. We operated as a multi-bank holding company and over the years, have acquired several banks. In accordance with the corporate strategy, in place at that time, of leaving the bank structure unchanged, each acquired bank stayed intact as did its regulatory structure. As a result, the Company's eight affiliate banks were regulated by the Arkansas State Bank Department, the Federal Reserve, the FDIC, and/or the Office of the Comptroller of the Currency ("OCC").

Following the regulatory realignment, the lead bank remained a national bank regulated by the OCC while the other affiliate banks became state member banks with the Arkansas State Bank Department as their primary regulator and the Federal Reserve as their federal regulator. Because of the overlap in footprint, during the fourth quarter of 2013 we merged Simmons First Bank of Northwest Arkansas into Simmons Bank in conjunction with our acquisition of Metropolitan, reducing the number of affiliate state member banks to six. During 2014 we consolidated six of our smaller subsidiary banks into Simmons Bank. After the subsidiary banks were merged into the lead bank, the OCC remained Simmons Bank's primary regulator.

In January 2016 the board of directors for the Bank approved a recommendation to convert from a national bank charter to a state bank charter. We have started the application and exam process and expect the conversion to be completed in March of 2016.

The lending powers of our subsidiary bank are generally subject to certain restrictions, including the amount which may be lent to a single borrower. Simmons Bank is a member of the FDIC, which provides insurance on deposits of each member bank up to applicable limits by the Deposit Insurance Fund. For this protection, Simmons Bank pays a statutory assessment to the FDIC each year.

Federal law substantially restricts transactions between banks and their affiliates. As a result, our subsidiary bank is limited in making extensions of credit to the Company, investing in the stock or other securities of the Company and engaging in other financial transactions with the Company. Those transactions that are permitted must generally be undertaken on terms at least as favorable to the bank as those prevailing in comparable transactions with independent third parties.

#### **Potential Enforcement Action for Bank Holding Companies and Banks**

Enforcement proceedings seeking civil or criminal sanctions may be instituted against any bank, any financial or bank holding company, any director, officer, employee or agent of the bank or holding company, which is believed by the federal banking agencies to be violating any administrative pronouncement or engaged in unsafe and unsound practices. In addition, the FDIC may terminate the insurance of accounts, upon determination that the insured institution has engaged in certain wrongful conduct or is in an unsound condition to continue operations.

## **Risk-Weighted Capital Requirements for the Company and the Subsidiary Banks**

Since 1993, banking organizations (including financial holding companies, bank holding companies and banks) were required to meet a minimum ratio of Total Capital to Total Risk-Weighted Assets of 8%, of which at least 4% must be in the form of Tier 1 Capital. A well-capitalized institution was one that had at least a 10% "total risk-based capital" ratio.

Effective January 1, 2015, the Company and the Bank became subject to new capital regulations (the "Basel III Capital Rules") adopted by the Federal Reserve in July 2013 establishing a new comprehensive capital framework for U.S. Banks. The Basel III Capital Rules substantially revise the risk-based capital requirements applicable to bank holding companies and depository institutions compared to the previous U.S. risk-based capital rules. Full compliance with all of the final rule's requirements will be phased in over a multi-year schedule. For a tabular summary of our risk-weighted capital ratios, see "Management's Discussion and Analysis of Financial Condition and Results of Operations – Capital" and Note 20, Stockholders' Equity, of the Notes to Consolidated Financial Statements.

The final rules include a new common equity Tier 1 capital to risk-weighted assets (CET1) ratio of 4.5% and a common equity Tier 1 capital conservation buffer of 2.5% of risk-weighted assets. CET1 generally consists of common stock; retained earnings; accumulated other comprehensive income and certain minority interests; all subject to applicable regulatory adjustments and deductions. The new capital conservation buffer requirement is to be phased in beginning on January 1, 2016 when a buffer greater than 0.625% of risk-weighted assets will be required, which amount will increase each year until the buffer requirement is fully implemented on January 1, 2019.

A banking organization's qualifying total capital consists of two components: Tier 1 Capital and Tier 2 Capital. Tier 1 Capital is an amount equal to the sum of common shareholders' equity, hybrid capital instruments (instruments with characteristics of debt and equity) in an amount up to 25% of Tier 1 Capital, certain preferred stock and the minority interest in the equity accounts of consolidated subsidiaries. For bank holding companies and financial holding companies, goodwill (net of any deferred tax liability associated with that goodwill) may not be included in Tier 1 Capital. Identifiable intangible assets may be included in Tier 1 Capital for banking organizations, in accordance with certain further requirements. At least 50% of the banking organization's total regulatory capital must consist of Tier 1 Capital.

Tier 2 Capital is an amount equal to the sum of the qualifying portion of the allowance for loan losses, certain preferred stock not included in Tier 1, hybrid capital instruments (instruments with characteristics of debt and equity), certain long-term debt securities and eligible term subordinated debt, in an amount up to 50% of Tier 1 Capital. The eligibility of these items for inclusion as Tier 2 Capital is subject to certain additional requirements and limitations of the federal banking agencies.

The Basel III Capital Rules expanded the risk-weighting categories from the previous four Basel I-derived categories (0%, 20%, 50% and 100%) to a much larger and more risk-sensitive number of categories, depending on the nature of the assets, generally ranging from 0% for U.S. government and agency securities, to 600% for certain equity exposures, and resulting in higher risk weights for a variety of asset categories, including many residential mortgages and certain commercial real estate.

Under the new capital regulations, the minimum capital ratios are: (1) a CET1 capital ratio of 4.5% of risk-weighted assets; (2) a Tier 1 capital ratio of 6.0% of risk-weighted assets; (3) a total risk-based capital ratio of 8.0% of risk-weighted assets; and (4) a leverage ratio (the ratio of Tier 1 capital to average total adjusted assets) of 4.0%. The FDIC's prompt corrective action standards changed when these new capital regulations became effective. Under the new standards, in order to be considered well-capitalized, the Bank must have a ratio of CET1 capital to risk-weighted assets of 6.5% (new), a ratio of Tier 1 capital to risk-weighted assets of 8% (increased from 6%), a ratio of total capital to risk-weighted assets of 10% (unchanged), and a leverage ratio of 5% (unchanged); and in order to be considered adequately capitalized, it must have the minimum capital ratios described above.

### **Federal Deposit Insurance Corporation Improvement Act**

The Federal Deposit Insurance Corporation Improvement Act ("FDICIA"), enacted in 1991, requires the FDIC to increase assessment rates for insured banks and authorizes one or more "special assessments," as necessary for the repayment of funds borrowed by the FDIC or any other necessary purpose. As directed in FDICIA, the FDIC has adopted a transitional risk-based assessment system, under which the assessment rate for insured banks will vary according to the level of risk incurred in the bank's activities. The risk category and risk-based assessment for a bank is determined from its classification, pursuant to the regulation, as well capitalized, adequately capitalized or undercapitalized.

FDICIA substantially revised the bank regulatory provisions of the Federal Deposit Insurance Act and other federal banking statutes, requiring federal banking agencies to establish capital measures and classifications. Pursuant to the regulations issued under FDICIA, a depository institution will be deemed to be well capitalized if it significantly exceeds the minimum level required for each relevant capital measure; adequately capitalized if it meets each such measure; undercapitalized if it fails to meet any such measure; significantly undercapitalized if it is significantly below any such measure; and critically undercapitalized if it fails to meet any critical capital level set forth in regulations. The federal banking agencies must promptly mandate corrective actions by banks that fail to meet the capital and related requirements in order to minimize losses to the FDIC. The FDIC and OCC advised the Company that the subsidiary banks have been classified as well capitalized under these regulations.

The federal banking agencies are required by FDICIA to prescribe standards for banks and bank holding companies (including financial holding companies) relating to operations and management, asset quality, earnings, stock valuation and compensation. A bank or bank holding company that fails to comply with such standards will be required to submit a plan designed to achieve compliance. If no plan is submitted or the plan is not implemented, the bank or holding company would become subject to additional regulatory action or enforcement proceedings.

A variety of other provisions included in FDICIA may affect the operations of the Company and the subsidiary banks, including new reporting requirements, revised regulatory standards for real estate lending, "truth in savings" provisions, and the requirement that a depository institution give 90 days prior notice to customers and regulatory authorities before closing any branch.

### **Dodd-Frank Wall Street Reform and Consumer Protection Act**

On July 21, 2010, the President signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"), which significantly changes the regulation of financial institutions and the financial services industry. The Dodd-Frank Act includes provisions affecting large and small financial institutions alike, including several provisions that profoundly affect how community banks, thrifts, and small bank and thrift holding companies are regulated in the future. Among other things, these provisions abolish the Office of Thrift Supervision and transfer its functions to the other federal banking agencies, relax rules regarding interstate branching, allow financial institutions to pay interest on business checking accounts, and impose new capital requirements on bank and thrift holding companies.

The Dodd-Frank Act requires that the amount of any interchange fee charged by a debit card issuer with respect to a debit card transaction must be reasonable and proportional to the cost incurred by the issuer. Effective October 1, 2011, the FRB set the interchange rate cap at \$0.21 per transaction plus five basis points multiplied by the value of the transaction. While the restrictions on interchange fees do not apply to banks that, together with their affiliates, have assets of less than \$10 billion, the rule has affected the competitiveness of debit cards issued by smaller banks. If our bank subsidiary exceeds \$10 billion in total assets, then it will become subject to the interchange rate limits of larger banks which may negatively impact our interchange revenue.

The Dodd-Frank Act also established the Bureau of Consumer Financial Protection (the “CFPB”) as an independent entity within the Federal Reserve, which will be given the authority to promulgate consumer protection regulations applicable to all entities offering consumer financial services or products, including banks. Additionally, the Dodd-Frank Act includes a series of provisions covering mortgage loan origination standards affecting, among other things, originator compensation, minimum repayment standards, and pre-payment penalties. The Dodd-Frank Act contains numerous other provisions affecting financial institutions of all types, many of which may have an impact on our operating environment in substantial and unpredictable ways.

Because many of the regulations required to implement the Dodd-Frank Act have been only recently issued, or have not yet been issued, the statute’s effect on the financial services industry in general, and on us in particular, is uncertain at this time. The Dodd-Frank Act is likely to affect our cost of doing business, however, and may limit or expand the scope of our permissible activities and affect the competitive balance within our industry and market areas. Our management continues to actively review the provisions of the Dodd-Frank Act and to assess its probable impact on our business, financial condition, and results of operations. However, given the sweeping nature of the Dodd-Frank Act and other federal government initiatives, we expect that the Company’s regulatory compliance costs will increase over time.

#### **FDIC Deposit Insurance and Assessments**

Our customer deposit accounts are insured up to applicable limits by the FDIC’s Deposit Insurance Fund (“DIF”) up to \$250,000 per separately insured depositor.

The Dodd-Frank Act changed how the FDIC calculates deposit insurance premiums payable by insured depository institutions. The Dodd-Frank Act directs the FDIC to amend its assessment regulations so that future assessments will generally be based upon a depository institution's average total consolidated assets minus the average tangible equity of the insured depository institution during the assessment period, whereas assessments were previously based on the amount of an institution's insured deposits. The minimum deposit insurance fund rate will increase from 1.15% to 1.35% by September 30, 2020, and the cost of the increase will be borne by depository institutions with assets of \$10 billion or more. If our bank subsidiary exceeds \$10 billion in total assets, then it will become subject to the assessment rates assigned to larger banks which may result in higher deposit insurance premiums.

The Dodd-Frank Act also provides the FDIC with discretion to determine whether to pay rebates to insured depository institutions when its deposit insurance reserves exceed certain thresholds. Previously, the FDIC was required to give rebates to depository institutions equal to the excess once the reserve ratio exceeded 1.50%, and was required to rebate 50% of the excess over 1.35% but not more than 1.5% of insured deposits. The FDIC adopted a final rule on February 7, 2011 that implemented these provisions of the Dodd-Frank Act.

### **Pending Legislation**

Because of concerns relating to competitiveness and the safety and soundness of the banking industry, Congress often considers a number of wide-ranging proposals for altering the structure, regulation, and competitive relationships of the nation's financial institutions. We cannot predict whether or in what form any proposals will be adopted or the extent to which our business may be affected.

## **ITEM 1A. RISK FACTORS**

### **Risks Related to Our Industry**

*Our business may be adversely affected by conditions in the financial markets and general economic conditions.*

Changes in economic conditions could cause the values of assets and liabilities recorded in the financial statements to change rapidly, resulting in material future adjustments in asset values, the allowance for loan losses, or capital that could negatively impact the Company's ability to meet regulatory capital requirements and maintain sufficient liquidity.

The previous economic downturn elevated unemployment levels and negatively impacted consumer confidence. It also had a detrimental impact on industry-wide performance nationally as well as the Company's market areas. Since



2013, improvement in several economic indicators have been noted, including increasing consumer confidence levels, increased economic activity and a continued decline in unemployment levels.

Market conditions have also led to the failure or merger of a number of prominent financial institutions. Financial institution failures or near-failures have resulted in further losses as a consequence of defaults on securities issued by them and defaults under contracts entered into with such entities as counterparties. Furthermore, declining asset values, defaults on mortgages and consumer loans, and the lack of market and investor confidence, as well as other factors, have all combined to increase credit default swap spreads, to cause rating agencies to lower credit ratings, and to otherwise increase the cost and decrease the availability of liquidity, despite very significant declines in Federal Reserve borrowing rates and other government actions. Some banks and other lenders have suffered significant losses and have become reluctant to lend, even on a secured basis, due to the increased risk of default and the impact of declining asset values on the value of collateral. The foregoing has significantly weakened the strength and liquidity of some financial institutions worldwide.

The Company's financial performance generally, and in particular the ability of borrowers to pay interest on and repay principal of outstanding loans and the value of collateral securing those loans, is highly dependent upon the business environment in the states where we operate, and in the United States as a whole. A favorable business environment is generally characterized by, among other factors, economic growth, efficient capital markets, low inflation, high business and investor confidence and strong business earnings. Unfavorable or uncertain economic and market conditions can be caused by: declines in economic growth, business activity or investor or business confidence; limitations on the availability or increases in the cost of credit and capital; increases in inflation or interest rates; natural disasters; or a combination of these or other factors.

The business environment in the states where we operate could continue to deteriorate. There can be no assurance that these business and economic conditions will improve in the near term. The continuation of these conditions could adversely affect the credit quality of our loans and our results of operations and financial condition.

***Recent legislative and regulatory initiatives to address difficult market and economic conditions may not stabilize the U.S. banking system.***

In response to the financial crisis affecting the banking system and financial markets, the Dodd-Frank Act was enacted in 2010, as well as several programs that have been initiated by the U.S. Treasury, the FRB, and the FDIC to stabilize the financial system.

Some of the provisions of recent legislation and regulation that may adversely impact the Company include: the Durbin Amendment to the Dodd-Frank Act which mandates a limit to debit card interchange fees and Regulation E amendments to the EFTA regarding overdraft fees. These provisions may limit the type of products we offer, the methods by which we offer them, and the prices at which they are offered. These provisions may also increase our costs in offering these products.

The newly created CFPB has unprecedented authority over the regulation of consumer financial products and services. The CFPB has broad rule-making, supervisory and examination authority, as well as expanded data collecting and enforcement powers. The scope and impact of the CFPB's actions cannot be determined at this time, which creates significant uncertainty for the Company and the financial services industry in general.

These new laws, regulations, and changes may increase our costs of regulatory compliance. They may significantly affect the markets in which we do business, the markets for and value of our investments, and our ongoing operations, costs, and profitability. The future impact of the many provisions in the Dodd-Frank Act and other legislative and regulatory initiatives on the Company's business and results of operations will depend upon regulatory interpretation and rulemaking that will be undertaken over the next several months and years. As a result, we are unable to predict the ultimate impact of the Dodd-Frank Act or of other future legislation or regulation, including the extent to which it could increase costs or limit our ability to pursue business opportunities in an efficient manner, or otherwise adversely affect our business, financial condition and results of operations.

***Difficult market conditions have adversely affected our industry.***

The financial markets have continued to experience significant volatility. In some cases, the financial markets have produced downward pressure on stock prices and credit availability for certain issuers without regard to those issuers' underlying financial strength. If financial market volatility worsens, or if there are more disruptions in the financial markets, including disruptions to the United States or international banking systems, there can be no assurance that we will not experience an adverse effect, which may be material, on our ability to access capital and on our business, financial condition and results of operations.

## Risks Related to Our Business

*Our concentration of banking activities in Arkansas, Kansas, Missouri and Tennessee, including our real estate loan portfolio, makes us more vulnerable to adverse conditions in the particular local markets in which we operate.*

Our subsidiary bank operates primarily within the states of Arkansas, Kansas, Missouri and Tennessee, where the majority of the buildings and properties securing our loans and the businesses of our customers are located. Our financial condition, results of operations and cash flows are subject to changes in the economic conditions in these four states, the ability of our borrowers to repay their loans, and the value of the collateral securing such loans. We largely depend on the continued growth and stability of the communities we serve for our continued success. Declines in the economies of these communities or the states, in general could adversely affect our ability to generate new loans or to receive repayments of existing loans, and our ability to attract new deposits, thus adversely affecting our net income, profitability and financial condition.

The ability of our borrowers to repay their loans could also be adversely impacted by the significant changes in market conditions in the region or by changes in local real estate markets, including deflationary effects on collateral value caused by property foreclosures. This could result in an increase in our charge-offs and provision for loan losses. Either of these events would have an adverse impact on our results of operations.

A significant decline in general economic conditions caused by inflation, recession, unemployment, acts of terrorism or other factors beyond our control could also have an adverse effect on our financial condition and results of operations. In addition, because multi-family and commercial real estate loans represent the majority of our real estate loans outstanding, a decline in tenant occupancy due to such factors or for other reasons could adversely impact the ability of our borrowers to repay their loans on a timely basis, which could have a negative impact on our results of operations.

***Deteriorating credit quality, particularly in our credit card portfolio, may adversely impact us.***

We have a significant consumer credit card portfolio. Although we experienced a decreased amount of net charge-offs in our credit card portfolio in 2015 and 2014, the amount of net charge-offs could worsen. While we continue to experience a better performance with respect to net charge-offs than the national average in our credit card portfolio, our net charge-offs were 1.28% of our average outstanding credit card balances for the year ended December 31, 2015, compared to 1.27% of the average outstanding balances for the year ended on December 31, 2014. Future downturns in the economy could adversely affect consumers in a more delayed fashion compared to commercial businesses in general. Increasing unemployment and diminished asset values may prevent our credit card customers from repaying their credit card balances which could result in an increased amount of our net charge-offs that could have a material adverse effect on our unsecured credit card portfolio.

***Changes to consumer protection laws may impede our origination or collection efforts with respect to credit card accounts, change account holder use patterns or reduce collections, any of which may result in decreased profitability of our credit card portfolio.***

Credit card receivables that do not comply with consumer protection laws may not be valid or enforceable under their terms against the obligors of those credit card receivables. Federal and state consumer protection laws regulate the creation and enforcement of consumer loans, including credit card receivables. For instance, the federal Truth in Lending Act was amended by the “Credit Card Accountability, Responsibility and Disclosure Act of 2009,” or the “Credit CARD Act,” which, among other things:

- prevents any increases in interest rates and fees during the first year after a credit card account is opened, and increases at any time on interest rates on existing credit card balances, unless (i) the minimum payment on the related account is 60 or more days delinquent, (ii) the rate increase is due to the expiration of a promotional rate, (iii) the account holder fails to comply with a negotiated workout plan or (iv) the increase is due to an increase in the index rate for a variable rate credit card;
- requires that any promotional rates for credit cards be effective for at least six months;
- requires 45 days notice for any change of an interest rate or any other significant changes to a credit card account;
- empowers federal bank regulators to promulgate rules to limit the amount of any penalty fees or charges for credit card accounts to amounts that are “reasonable and proportional to the related omission or violation;” and
- requires credit card companies to mail billing statements 21 calendar days before the due date for account holder payments.

As a result of the Credit CARD Act and other consumer protection laws and regulations, it may be more difficult for us to originate additional credit card accounts or to collect payments on credit card receivables, and the finance charges and other fees that we can charge on credit card account balances may be reduced. Furthermore, account holders may choose to use credit cards less as a result of these consumer protection laws. Each of these results, independently or collectively, could reduce the effective yield on revolving credit card accounts and could result in decreased profitability of our credit card portfolio.

*Our growth and expansion strategy may not be successful, and our market value and profitability may suffer.*

We have historically employed, as important parts of our business strategy, growth through acquisition of banks and, to a lesser extent, through branch acquisitions and *de novo* branching. Any future acquisitions in which we might engage will be accompanied by the risks commonly encountered in acquisitions. These risks include, among other risks:

- credit risk associated with the acquired bank's loans and investments;
- difficulty of integrating operations and personnel; and
- potential disruption of our ongoing business.

In addition to pursuing the acquisition of existing viable financial institutions as opportunities arise we may also continue to engage in *de novo* branching to further our growth strategy. *De novo* branching and growing through acquisition involve numerous risks, including the following:

- the inability to obtain all required regulatory approvals;
- the significant costs and potential operating losses associated with establishing a *de novo* branch or a new bank;
- the inability to secure the services of qualified senior management;
- the local market may not accept the services of a new bank owned and managed by a bank holding company headquartered outside of the market area of the new bank;
- the risk of encountering an economic downturn in the new market;
- the inability to obtain attractive locations within a new market at a reasonable cost; and
- the additional strain on management resources and internal systems and controls.

We expect that competition for suitable acquisition candidates will be significant. We may compete with other banks or financial service companies that are seeking to acquire our acquisition candidates, many of which are larger competitors and have greater financial and other resources. We cannot assure you that we will be able to successfully identify and acquire suitable acquisition targets on acceptable terms and conditions. Further, we cannot assure you that we will be successful in overcoming these risks or any other problems encountered in connection with acquisitions and *de novo* branching. Our inability to overcome these risks could have an adverse effect on our ability to achieve our business and growth strategy and maintain or increase our market value and profitability.

***Our recent results do not indicate our future results and may not provide guidance to assess the risk of an investment in our common stock.***

We may not be able to sustain our historical rate of growth or be able to expand our business. Various factors, such as economic conditions, regulatory and legislative considerations and competition, may also impede or prohibit our ability to expand our market presence. We may also be unable to identify advantageous acquisition opportunities or, once identified, enter into transactions to make such acquisitions. If we are not able to successfully grow our business, our financial condition and results of operations could be adversely affected.

***Our cost of funds may increase as a result of general economic conditions, interest rates and competitive pressures.***

Our cost of funds may increase as a result of general economic conditions, fluctuations in interest rates and competitive pressures. We have traditionally obtained funds principally through local deposits as we have a base of lower cost transaction deposits. Our costs of funds and our profitability and liquidity are likely to be adversely affected, if we have to rely upon higher cost borrowings from other institutional lenders or brokers to fund loan demand or liquidity needs. Also, changes in our deposit mix and growth could adversely affect our profitability and the ability to expand our loan portfolio.

***We may not be able to raise the additional capital we need to grow and, as a result, our ability to expand our operations could be materially impaired.***

Federal and state regulatory authorities require us and our subsidiary banks to maintain adequate levels of capital to support our operations. Many circumstances could require us to seek additional capital, such as:

- faster than anticipated growth;
- reduced earning levels;
- operating losses;
- changes in economic conditions;

revisions in regulatory requirements; or  
additional acquisition opportunities.

Our ability to raise additional capital will largely depend on our financial performance, and on conditions in the capital markets which are outside our control. If we need additional capital but cannot raise it on terms acceptable to us, our ability to expand our operations or to engage in acquisitions could be materially impaired.

***Accounting standards periodically change and the application of our accounting policies and methods may require management to make estimates about matters that are uncertain.***

The regulatory bodies that establish accounting standards, including, among others, the Financial Accounting Standards Board and the SEC, periodically revise or issue new financial accounting and reporting standards that govern the preparation of our consolidated financial statements. The effect of such revised or new standards on our financial statements can be difficult to predict and can materially impact how we record and report our financial condition and results of operations.

In addition, our management must exercise judgment in appropriately applying many of our accounting policies and methods so they comply with generally accepted accounting principles. In some cases, management may have to select a particular accounting policy or method from two or more alternatives. In some cases, the accounting policy or method chosen might be reasonable under the circumstances and yet might result in our reporting materially different amounts than would have been reported if we had selected a different policy or method. Accounting policies are critical to fairly presenting our financial condition and results of operations and may require management to make difficult, subjective or complex judgments about matters that are uncertain.

***The Federal Reserve Board's source of strength doctrine could require that we divert capital to our subsidiary bank instead of applying available capital towards planned uses, such as engaging in acquisitions or paying dividends to shareholders.***

The FRB's policies and regulations require that a bank holding company, including a financial holding company, serve as a source of financial strength to its subsidiary banks, and further provide that a bank holding company may not conduct operations in an unsafe or unsound manner. It is the FRB's policy that a bank holding company should stand ready to use available resources to provide adequate capital to its subsidiary banks during periods of financial stress or adversity, such as during periods of significant loan losses, and that such holding company should maintain the financial flexibility and capital-raising capacity to obtain additional resources for assisting its subsidiary banks if such a need were to arise.

A bank holding company's failure to meet its obligations to serve as a source of strength to its subsidiary banks will generally be considered to be an unsafe and unsound banking practice or a violation of the FRB's regulations, or both. Accordingly, if the financial condition of our subsidiary banks were to deteriorate, we could be compelled to provide financial support to our subsidiary banks at a time when, absent such FRB policy, we may not deem it advisable to provide such assistance. Under such circumstances, there is a possibility that we may not either have adequate available capital or feel sufficiently confident regarding our financial condition, to enter into acquisitions, pay dividends, or engage in other corporate activities.

***We may incur environmental liabilities with respect to properties to which we take title.***

A significant portion of our loan portfolio is secured by real property. In the course of our business, we may own or foreclose and take title to real estate and could become subject to environmental liabilities with respect to these properties. We may become responsible to a governmental agency or third parties for property damage, personal injury, investigation and clean-up costs incurred by those parties in connection with environmental contamination, or may be required to investigate or clean-up hazardous or toxic substances, or chemical releases at a property. The costs associated with environmental investigation or remediation activities could be substantial. If we were to become subject to significant environmental liabilities, it could have a material adverse effect on our results of operations and financial condition.

***Our management has broad discretion over the use of proceeds from future stock offerings.***

Although we generally indicate our intent to use the proceeds from stock offerings for general corporate purposes, including funding internal growth and se