

**SECURITIES AND EXCHANGE COMMISSION****Washington, D.C. 20549****FORM S-1  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933****FIRST PACTRUST BANCORP, INC.**

(Exact name of registrant as specified in its charter)

**Maryland**

(State or other jurisdiction of incorporation or organization)

**6035**(Primary Standard Industrial  
Classification Code Number)**To Be Requested**

(I.R.S. Employer Identification No.)

**610 Bay Boulevard, Chula Vista, California 91910  
(619) 691-1519**

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

**Hans R. Ganz, President and Chief Executive Officer  
First PacTrust Bancorp, Inc.  
610 Bay Boulevard  
Chula Vista, California 91910  
(619) 691-1519**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

**Please send copies of all communications to:****Robert L. Freedman, PC  
Martin L. Meyrowitz, P.C.  
Beth A. Freedman, Esq.  
SILVER, FREEDMAN & TAFF, L.L.P.  
(a limited liability partnership including professional corporations)  
1700 Wisconsin Avenue, NW  
Washington, DC 20007  
(202) 295-4500****Approximate date of commencement of proposed sale to the public:** As soon as practicable after this Registration Statement becomes effective.

If any of the securities being registered on this Form are being offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933 check the following box. [X]

**CALCULATION OF REGISTRATION FEE****Title of Each Class of  
Securities to be Registered****Amount to be  
Registered(1)****Proposed Maximum  
Offering Price****Proposed Maximum  
Aggregate****Amount of  
Registration Fee**

|                                          |                  | <u>Per Share (1)</u> | <u>Offering Price(1)</u> |                           |
|------------------------------------------|------------------|----------------------|--------------------------|---------------------------|
| Common Stock, par value \$.01 per shares | 4,099,750 shares | \$10.00              | \$40,997,500             | \$3,772.00 <sup>(1)</sup> |

<sup>(1)</sup> Estimated solely for the purpose of calculating the registration fee.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

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## PROSPECTUS

### Up to 4,099,750 Shares of Common Stock

## FIRST PACTRUST BANCORP, INC.

(Proposed Holding Company for Pacific Trust Bank)

Pacific Trust Bank is converting from the mutual to the stock form of organization. As part of the conversion, Pacific Trust Bank will issue all of its common stock to First PacTrust Bancorp, Inc. First PacTrust Bancorp, Inc. has been formed to be the holding company for Pacific Trust Bank. The common stock of First PacTrust Bancorp, Inc. expects to be listed for trading on the Nasdaq National Market under the symbol "\_\_\_\_."

### TERMS OF THE OFFERING

|                                              | Minimum      | Maximum      | Maximum,<br>as adjusted |
|----------------------------------------------|--------------|--------------|-------------------------|
| Per Share Price                              | \$10.00      | \$10.00      | \$10.00                 |
| Number of Shares                             | 2,635,000    | 3,565,000    | 4,099,750               |
| Underwriting Commission and Other Expenses   | \$1,083,000  | \$1,211,000  | \$1,285,000             |
| Net Proceeds to First PacTrust Bancorp, Inc. | \$25,267,000 | \$34,439,000 | \$39,713,000            |
| Net Proceeds Per Share                       | \$9.59       | \$9.66       | \$9.69                  |

**Please refer to "Risk Factors" beginning on page 8 of this document.**

Keefe, Bruyette & Woods, Inc. will use its best efforts to assist First PacTrust Bancorp, Inc. in selling at least the minimum number of shares, but does not guarantee that this number will be sold.

The offering to depositors of Pacific Trust Bank will end at 12:00 Noon, Chula Vista, California time, on \_\_\_\_\_, 2002. First PacTrust Bancorp, Inc. will hold all funds of subscribers in an interest-bearing savings account at Pacific Trust Bank until the conversion is completed or terminated. Funds will be returned promptly with interest if the conversion is terminated.

*These securities are not deposits or accounts and are not insured or guaranteed by the Federal Deposit Insurance Corporation or any other governmental agency.*

*Neither the Securities and Exchange Commission, the Office of Thrift Supervision, nor any other federal agency or state securities regulator has approved or disapproved these securities or determined if this prospectus is accurate or complete. Any representation to the contrary is a criminal offense.*

For information on how to subscribe, call the stock information center at (\_\_\_\_) \_\_\_\_-\_\_\_\_.

KEEFE, BRUYETTE & WOODS, INC.

\_\_\_\_\_, 2002

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[MAP of Registrant's market area to be produced here.]

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## SUMMARY

This summary highlights selected information from this document and may not contain all the information that is important to you. To understand the stock offering fully, you should read this entire document carefully, including the financial statements and the notes to the financial statements.

### The Companies:

**First PacTrust Bancorp, Inc.**  
610 Bay Boulevard  
Chula Vista, California 91910

First PacTrust Bancorp, Inc. will be the holding company for Pacific Trust Bank when our conversion to stock form is complete. First PacTrust Bancorp, Inc. was formed in March 2002 and has not engaged in any business.

**Pacific Trust Bank**  
610 Bay Boulevard  
Chula Vista, California 91910

Pacific Trust Bank is a federal mutual savings bank that converted from a federal credit union known as Pacific Trust Federal Credit Union on January 1, 2000. At December 31, 2001, we had total assets of \$310.1 million, deposits of \$252.0 million and total equity of \$28.7 million. We are changing our structure by becoming a stock savings bank. Unless the context indicates otherwise, references to Pacific Trust Bank prior to January 1, 2000 shall include Pacific Trust Federal Credit Union.

We are a community-oriented savings bank serving primarily San Diego and Riverside Counties in California through seven full service banking offices. We emphasize residential mortgage lending, primarily originating one-to four-family mortgage loans. We also originate multi-family and commercial real estate loans and a wide variety of consumer loans.

### The Stock Offering

We are converting to stock form and offering common stock to the public primarily to better allow us to grow through expanded operations, as well as through increased branching and acquisitions. The stock form will also give us more flexibility to increase

our capital position and to offer stock-based employee compensation. See "Pacific Trust Bank's Conversion - Our Reasons for the Corporate Change."

We are offering between 2,635,000 and 3,565,000 shares of First PacTrust Bancorp, Inc. common stock at \$10.00 per share. In the event of changes in financial market conditions before we complete the conversion, the number of shares we offer may increase to 4,099,750 shares with the approval of the Office of Thrift Supervision and without any notice to you. If so, you will not have the chance to change or cancel your stock order.

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Keefe, Bruyette & Woods, Inc. will assist us in selling the stock. For further information about Keefe, Bruyette & Woods, Inc.'s role in the offering, see "Pacific Trust Bank's Conversion - Marketing Arrangements."

### **How We Determined the Offering Range and the \$10.00 Price Per Share**

The independent appraisal by RP Financial, L.C., dated as of \_\_\_\_\_, 2002, established the offering range. This appraisal was based on our financial condition and operations and the effect of the additional capital raised in the conversion. The \$10.00 price per share was determined by our board of directors and is the price most commonly used in stock offerings involving conversions of mutual savings institutions. RP Financial will update the appraisal before the completion of the conversion.

### **Terms of the Offering**

We are offering the shares of common stock to those with subscription rights in the following order of priority:

- (1) Depositors who held at least \$50 with us on December 31, 1999.
- (2) The First PacTrust Bancorp, Inc. employee stock ownership plan.
- (3) Depositors, other than directors and officers of Pacific Trust Bank, who held at least \$50 with us on March 31, 2002.
- (4) Depositors as of \_\_\_\_\_, 2002.
- (5) Pacific Trust Bank's directors, officers and employees.

Shares of common stock not subscribed for in the subscription offering will be offered to the general public in a direct community offering with a preference to natural persons residing in San Diego and Riverside Counties, California and, if necessary, a public offering. See pages 37 to 38.

### **Termination of the Offering**

The subscription offering will end at 12:00 Noon, Chula Vista, California time on \_\_\_\_\_, 2002. If fewer than the minimum number of shares are subscribed for in the subscription offering and we do not get orders for at least the minimum number of shares by \_\_\_\_\_, 2002, we will either:

- (1) promptly return any payment you made to us, with interest, or cancel any withdrawal authorization you gave us; or
- (2) extend the offering, if allowed, and give you notice of the extension and of your rights to cancel or change your order. If we extend the offering and you do not

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respond to the notice, then we will cancel your order and return your payment, with interest, or cancel any withdrawal authorization you gave us. We must complete or terminate the offering by \_\_\_\_\_, 2002.

### **How We Will Use the Proceeds Raised From the Sale of Common Stock**

We intend to use the net proceeds received from the stock offering, assuming completion of the offering at the maximum of the estimated offering range, as follows:

|              |                                                                                                                        |
|--------------|------------------------------------------------------------------------------------------------------------------------|
| \$14,368,000 | Retained by First PacTrust Bancorp, Inc. and initially placed in short-term investments for general corporate purposes |
| 2,852,000    | Employee stock ownership plan loan                                                                                     |

|              |                                             |
|--------------|---------------------------------------------|
| 17,219,000   | Used to buy the stock of Pacific Trust Bank |
| <hr/>        |                                             |
| \$34,439,000 | Net proceeds from stock offering            |
| <hr/>        |                                             |

We intend to use the proceeds at Pacific Trust Bank for future lending and investment, in addition to general corporate purposes.

### We Currently Intend to Pay a Cash Dividend in the Future

We currently plan to pay cash dividends in the future. However, the amount and timing of any dividends has not yet been determined. Based on our earnings history and the proceeds from the conversion, we believe we will have the financial ability to pay dividends, but future dividends are not guaranteed. We will not pay or take any steps to pay a tax-free dividend which qualifies as a return of capital for at least one year following the stock offering.

### The Common Stock is Expected to be Listed for Trading on the Nasdaq National Market

We expect our common stock to be listed for trading on the Nasdaq National Market under the symbol "FPTB." Our application to list our stock on the Nasdaq National Market is currently pending. However, due to the unpredictability of the stock market and other factors, persons purchasing shares may not be able to sell their shares when they want to, or at a price equal to or above \$10.00.

### Benefits to Management from the Offering

We intend to establish the First PacTrust Bancorp, Inc. employee stock ownership plan which will purchase 8% of the shares sold in this offering. A loan from First PacTrust Bancorp, Inc. to the plan, funded by a portion of the proceeds from this offering, will be used to purchase these shares. The employee stock ownership plan will provide a retirement benefit to all employees eligible to participate in the plan.

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We also intend to adopt a stock option plan and a restricted stock plan for the benefit of directors, officers and employees, subject to shareholder approval. If we adopt the restricted stock plan, some of these individuals will be awarded stock at no cost to them. As a result, both the employee stock ownership plan and the restricted stock plan will increase the voting control of management without a cash outlay.

The following table presents the total value of the shares of common stock, at the maximum of the offering range, which would be acquired by the employee stock ownership plan and the total value of all shares to be available for award and issuance under the restricted stock plan. The table assumes that the value of the shares is \$10.00 per share. The table does not include a value for the options because the price paid for the option shares will be equal to the fair market value of the common stock on the day that the options are granted. As a result, financial gains can be realized under an option only if the market price of common stock increases.

|                               | Estimated<br>Value of Shares | Percentage of<br>Shares Issued<br>in the Offering |
|-------------------------------|------------------------------|---------------------------------------------------|
| Employee Stock Ownership Plan | \$2,852,000                  | 8.0%                                              |
| Restricted Stock Awards       | 1,426,000                    | 4.0                                               |
| Stock Options                 | ---                          | 10.0                                              |
| Total                         | \$4,278,000                  | 22.0%                                             |

In addition, upon completion of the conversion, we intend to enter into termination agreements with Hans R. Ganz, President and Chief Executive Officer, James P. Sheehy, Senior Vice President, Secretary and Treasurer, and Melanie M. Stewart, Senior Vice President of Lending. The agreements are designed to assist us in maintaining a stable and competent management team after the conversion. The agreements will have a term of three years and provide for a severance payment in the event of a change in control of First PacTrust Bancorp, Inc. or Pacific Trust Bank.

For a further discussion of benefits to management, see "Management."

### How to Purchase Common Stock

***Note: Once we receive your order, you cannot cancel or change it without our consent. If First PacTrust Bancorp, Inc. intends to sell fewer than 2,635,000 shares or more than 4,099,750 shares, all subscribers will be notified and given the***

**opportunity to change or cancel their orders. If you do not respond to this notice, we will return your funds promptly with interest.**

If you want to subscribe for shares you must complete an original stock order form and send it, together with full payment or withdrawal authorization, to Pacific Trust Bank in the postage-paid envelope provided. You must sign the certification that is part of the stock order form. We must receive your stock order form before the end of the offering period.

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You may pay for shares in any of the following ways:

- **By cash**, if delivered in person to a full-service banking office of Pacific Trust Bank.
- **By check or money order** made payable to First PacTrust Bancorp, Inc.
- **By authorizing a withdrawal from an account at Pacific Trust Bank.** To use funds in an Individual Retirement Account at Pacific Trust Bank, you must transfer your account with an unaffiliated institution or broker. Please contact the stock information center as soon as possible for assistance.

We will pay interest on your subscription funds at the rate Pacific Trust Bank pays on passbook accounts from the date it receives your funds until the conversion is completed or terminated. All funds authorized for withdrawal from deposit accounts with Pacific Trust Bank will earn interest at the applicable account rate until the conversion is completed. There will be no early withdrawal penalty for withdrawals from certificates of deposit used to pay for stock.

### **Stock Information Center**

If you have any questions regarding the offering or our conversion to stock form, please call the stock information center at (\_\_\_\_) \_\_\_\_.

Pacific Trust Bank has a website (<http://www.pacifictrustbank.com>). Upon completion of the subscription offering on \_\_\_\_\_, 2002, the website will provide a current update on the status of the offering.

### **Subscription Rights**

Subscription rights are not allowed to be transferred and we will act to ensure that you do not do so. We will not accept any stock orders that we believe involve the transfer of subscription rights.

### **Important Risks in Owning First PacTrust Bancorp, Inc.'s Common Stock**

Before you decide to purchase stock, you should read the "Risk Factors" section on pages 8 to 10 of this document.

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## **RISK FACTORS**

You should consider these risk factors, in addition to the other information in this prospectus, before deciding whether to make an investment in this stock.

### **Rising interest rates may hurt our profits.**

To be profitable, we have to earn more money in interest we receive on loans and investments we make than we pay to our depositors and lenders in interest. If interest rates rise, our net interest income could be reduced if interest paid on interest-bearing liabilities, such as deposits and borrowings, increases more quickly than interest received on interest-earning assets, such as loans, mortgage-related and investment securities. In addition, rising interest rates may hurt our income because they may reduce the demand for loans and the value of our securities. For a further discussion of how changes in interest rates could impact us, see "Management's Discussion and Analysis of Financial Condition and Results of Operations - Asset and Liability Management and Market Risk."

### **Our loan portfolio possesses increased risk due to our substantial number of multi-family, commercial real estate and consumer loans.**

Our multi-family, commercial real estate and consumer loans accounted for approximately one-fourth of our total loan portfolio as of December 31, 2001. Generally, we consider these types of loans to involve a higher degree of risk compared to first mortgage loans on one- to four-family, owner-occupied residential properties. In addition, we plan to increase our emphasis on multi-family and commercial real estate lending, as well as one-to-four-family residential lending. Because of our planned increased emphasis on and increased investment in multi-family and commercial real estate lending, it may become necessary to increase the level of

our provision for loan losses, which could hurt our profits. For further information concerning the risks associated with multi-family, commercial real estate and consumer loans, see "Business of Pacific Trust Bank - Lending Activities" and "- Asset Quality."

**Our loan portfolio possesses increased risk due to its rapid expansion and unseasoned nature.**

Since January 1, 2000, when we converted from a credit union, our loan portfolio has grown by 76%. As a result of this rapid expansion, a significant portion of our portfolio is unseasoned, with the risk that these loans may not have had sufficient time to perform to properly indicate the potential magnitude of losses. During this time frame we have also experienced a declining rate environment. Our unseasoned adjustable rate loans have not, therefore, been subject to an interest rate environment which causes them to adjust to the maximum level and may involve risks resulting from potentially increasing payment obligations by the borrower as a result of repricing. Since some of these loans have terms which may result in negative amortization, where the loan payments do not fully cover interest expense and result in an increasing loan principal balance, the portfolio is also subject to increased risk of delinquency or default as the higher, fully indexed rate of interest subsequently comes into effect upon repricing.

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**After this offering, our return on equity will be low compared to other companies and our compensation expenses will increase. This could negatively impact the price of our stock.**

The proceeds we will receive from the sale of our common stock will significantly increase our capital and it will take us time to fully use this capital in our business operations. Our compensation expenses will also increase because of the costs associated with the employee stock ownership and stock-based incentive plans. Therefore, we expect our return on equity to be below our historical level and less than our regional and national peers. This low return on equity could hurt our stock price. We cannot guarantee when or if we will achieve returns on equity that are comparable to industry peers. For further information regarding pro forma income and expenses, see "Pro Forma Data."

**We intend to grant stock options and restricted stock to the board and management following the conversion which could reduce your ownership interest.**

If approved by a vote of the shareholders, we intend to establish a stock option plan with a number of shares equal to 10% of the shares issued in the conversion and a restricted stock plan with a number of shares equal to 4% of the shares issued in the conversion, worth \$1.4 million at the purchase price, assuming the maximum of the estimated offering range, for the benefit of directors, officers and employees of First PacTrust Bancorp, Inc. and Pacific Trust Bank. Stock options are paid for by the recipient in an amount equal to the fair market value of the stock on the date of the grant. This payment is not made until the option is actually exercised by the recipient. Restricted stock is a bonus paid in the form of stock rather than cash, and is not paid for by the recipient. Awards under these plans could reduce the ownership interest of all stockholders. For further discussion regarding these plans, see "Pro Forma Data" and "Management - Benefits - Other Stock Benefit Plans."

**The amount of common stock we will control, our charter and bylaws, and state and federal statutory provisions could discourage hostile acquisitions of control.**

Our board of directors, and executive officers intend to purchase approximately 10.55% of our common stock at the maximum of the offering range. These purchases, together with the purchase of 8% of the shares by the employee stock ownership plan, as well as the potential acquisition of common stock through the proposed stock option plan and restricted stock plan will result in significant inside ownership of First PacTrust Bancorp, Inc. This inside ownership and provisions in our charter and bylaws may have the effect of discouraging attempts to acquire First PacTrust Bancorp, Inc., a proxy contest for control of First PacTrust Bancorp, Inc., the assumption of control of First PacTrust Bancorp, Inc. by a holder of a large block of common stock and the removal of First PacTrust Bancorp, Inc.'s management, all of which certain shareholders might think are in their best interests. These provisions include, among other things:

- the staggered terms of the members of the board of directors;

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- an 80% shareholder vote requirement for the approval of any merger or consolidation of First PacTrust Bancorp, Inc. into any entity that directly or indirectly owns 5% or more of First PacTrust Bancorp, Inc. voting stock if the transaction is not approved in advance by at least a majority of the disinterested members of First PacTrust Bancorp, Inc.'s board of directors;
- supermajority shareholder vote requirements for the approval of certain amendments to First PacTrust Bancorp, Inc.'s charter and bylaws;
- a prohibition on any holder of common stock voting more than 10% of the outstanding common stock;
- elimination of cumulative voting by shareholders in the election of directors;

- restrictions on the acquisition of our equity securities; and
- the authorization of 5,000,000 shares of preferred stock that could be issued without shareholder approval on terms or in circumstances that could deter a future takeover attempt.

In addition, the Maryland business corporation law, the state where First PacTrust Bancorp, Inc. is incorporated, provides for certain restrictions on acquisition of First PacTrust Bancorp, Inc., and federal law contains restrictions on acquisitions of control of savings and loan holding companies such as First PacTrust Bancorp, Inc.

**Holders of First PacTrust Bancorp, Inc. common stock may not be able to sell their shares when desired if a liquid trading market does not develop or for \$10.00 or more per share even if a liquid trading market develops.**

We have never issued common stock to the public. Consequently, there is no established market for the common stock. We expect our common stock to be listed for trading on the Nasdaq National Market under the symbol "FPTB." We cannot predict whether a liquid trading market in shares of First PacTrust Bancorp, Inc.'s common stock will develop or how liquid that market might become. Persons purchasing shares may not be able to sell their shares when they desire if a liquid trading market does not develop and may not be able to sell them at a price equal to or above \$10.00 per share even if a liquid trading market develops.

**If economic conditions deteriorate, our results of operations and financial condition could be adversely impacted as borrowers' ability to repay loans declines and the value of the collateral securing our loans decreases.**

Our financial results may be adversely affected by changes in prevailing economic conditions, including decreases in real estate values, changes in interest rates which may cause a decrease in interest rate spreads, adverse employment conditions, the monetary and fiscal policies of the federal government and other significant external events. Because we have a significant amount of real estate loans, decreases in real estate values could adversely affect the value of property used as collateral. Adverse changes in the economy may also have a negative effect on the ability of our borrowers to make timely repayments of their loans, which would have an adverse impact on our earnings. In addition, substantially all of our loans are to individuals and businesses in Southern California.

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## SELECTED FINANCIAL AND OTHER DATA

The summary information presented below under "Selected Financial Condition Data" and "Selected Operations Data" for, and as of the end of, each of the years ended December 31 is derived from our audited financial statements. The following information is only a summary and you should read it in conjunction with our financial statements and notes beginning on page F-2.

|                                                     | December 31, |           |           |           |           |
|-----------------------------------------------------|--------------|-----------|-----------|-----------|-----------|
|                                                     | 2001         | 2000      | 1999      | 1998      | 1997      |
| <u>Selected Condition:</u>                          |              |           |           |           |           |
| Total assets                                        | \$310,076    | \$300,347 | \$225,161 | \$228,860 | \$219,877 |
| Cash and cash equivalents                           | 18,003       | 7,699     | 13,163    | 27,396    | 26,177    |
| Loans receivable, net                               | 257,216      | 234,301   | 146,080   | 139,934   | 146,976   |
| Securities available-for-sale                       | 13,661       | 40,948    | 55,996    | 45,868    | 17,252    |
| Other investments (interest-bearing term deposit)   | ---          | 825       | 825       | 5,880     | 16,116    |
| FHLB stock                                          | 2,509        | 2,705     | 1,221     | ---       | ---       |
| Servicing agent receivable                          | 11,687       | 7,923     | 1,271     | 2,180     | 1,468     |
| Deposits                                            | 251,954      | 218,695   | 200,940   | 206,007   | 201,622   |
| Total borrowings                                    | 28,000       | 53,800    | ---       | ---       | ---       |
| Total equity                                        | \$ 28,721    | \$ 26,457 | \$ 24,033 | \$ 21,944 | \$ 17,152 |
| <u>Selected Operations Data:</u>                    |              |           |           |           |           |
| Total interest income                               | \$ 21,822    | \$ 18,696 | \$ 15,955 | \$ 16,162 | \$ 16,155 |
| Total interest expense                              | 11,573       | 10,315    | 7,644     | 8,122     | 7,977     |
| Net interest income                                 | 10,249       | 8,381     | 8,311     | 8,122     | 8,178     |
| Provision for loan losses                           | 68           | 444       | 92        | (226)     | 1,235     |
| Net interest income after provision for loan losses | 10,181       | 7,937     | 8,219     | 8,266     | 6,943     |
| Customer service charges                            | 962          | 982       | 948       | 1,118     | 1,348     |
| Loan servicing fees                                 | 4            | 88        | 69        | 49        | 15        |
| Gain on sale of credit card portfolio               | ---          | ---       | ---       | 1,154     | ---       |

|                                                |          |          |          |          |          |
|------------------------------------------------|----------|----------|----------|----------|----------|
| Gain on disposition of fixed assets            | ---      | ---      | ---      | 493      | 132      |
| Loss on sales of securities available-for-sale | (55)     | (125)    | ---      | ---      | (74)     |
| Other non-interest income                      | 120      | 142      | 133      | 561      | 663      |
| Total non-interest income                      | 1,031    | 1,087    | 1,150    | 3,375    | 2,084    |
| Total non-interest expense                     | 7,604    | 6,981    | 6,558    | 6,715    | 6,577    |
| Income before taxes                            | 3,608    | 2,043    | 2,811    | 4,926    | 2,450    |
| Income tax provision <sup>(1)</sup>            | 1,512    | 300      | ---      | ---      | ---      |
| Net income                                     | \$ 2,096 | \$ 1,743 | \$ 2,811 | \$ 4,926 | \$ 2,450 |

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Selected Financial Ratios and Other Data:

|                                                                                  | December 31, |          |         |         |         |
|----------------------------------------------------------------------------------|--------------|----------|---------|---------|---------|
|                                                                                  | 2001         | 2000     | 1999    | 1998    | 1997    |
| <i>Performance Ratios:</i>                                                       |              |          |         |         |         |
| Return on assets (ratio of net income to average total assets)                   | 0.68%        | 0.66%    | 1.22%   | 2.19%   | 1.15%   |
| Return on equity (ratio of net income to average equity)                         | 7.50%        | 6.69%    | 11.87%  | 24.46%  | 15.46%  |
| Return on assets, net of tax <sup>(1)</sup>                                      | 0.68%        | 0.49%    | 0.72%   | 1.29%   | 0.68%   |
| Return on equity, net of tax <sup>(1)</sup>                                      | 7.50%        | 4.94%    | 6.98%   | 14.39%  | 9.10%   |
| <i>Interest Rate Spread Information:</i>                                         |              |          |         |         |         |
| Average during period                                                            | 3.37%        | 3.13%    | 3.57%   | 3.63%   | 3.91%   |
| End of period                                                                    | 4.08%        | 2.84%    | 3.43%   | 3.64%   | 4.14%   |
| Net interest margin <sup>(2)</sup>                                               | 3.58%        | 3.40%    | 3.81%   | 3.83%   | 4.11%   |
| Ratio of operating expense to average total assets                               | 2.46%        | 2.66%    | 2.84%   | 2.99%   | 3.08%   |
| Efficiency ratio <sup>(3)</sup>                                                  | 67.41%       | 73.73%   | 69.32%  | 58.83%  | 64.09%  |
| Ratio of average interest-earning assets to average interest-bearing liabilities | 105.03%      | 106.43%  | 106.85% | 105.08% | 105.13% |
| <i>Quality Ratios:</i>                                                           |              |          |         |         |         |
| Non-performing assets to total assets                                            | ---%         | 0.03%    | 0.13%   | 0.65%   | 0.36%   |
| Allowance for loan losses to non-performing loans <sup>(4)</sup>                 | 17420.00%    | 2235.53% | 661.22% | 133.15% | 380.78% |
| Allowance for loans losses to gross loans <sup>(4)</sup>                         | 0.67%        | 0.72%    | 0.87%   | 0.87%   | 1.38%   |
| <i>Capital Ratios:</i>                                                           |              |          |         |         |         |
| Equity to total assets at end of period                                          | 9.26%        | 8.81%    | 10.67%  | 9.59%   | 7.80%   |
| Average equity to average assets                                                 | 9.05%        | 9.93%    | 10.25%  | 8.97%   | 7.42%   |
| <i>Other Data:</i>                                                               |              |          |         |         |         |
| Number of full-service offices                                                   | 7            | 7        | 8       | 9       | 9       |

(1) Had Pacific Trust Bank been subject to federal and state income taxes for the fiscal years ended December 31, 1999, 1998 and 1997, income tax expense would have been approximately \$1.2 million, \$2.0 million and \$1.0 million, respectively, and net income would have been approximately \$1.7 million, \$2.9 million and \$1.4 million, respectively. In addition, income tax expense and net income for the fiscal year ended December 31, 2000 would have been \$756,000 and \$1.3 million, respectively.

(2) Net interest income divided by average interest-earning assets.

(3) Efficiency ratio represents noninterest expense as a percentage of net interest income plus noninterest income.

(4) The allowance for loan losses at December 31, 2001, 2000, 1999, 1998 and 1997 was \$1.7 million, \$1.7 million, \$1.3 million, \$1.2 million and \$2.1 million.

## **FIRST PACTRUST BANCORP, INC.**

First PacTrust Bancorp, Inc. was incorporated under Maryland law to hold all of the stock of Pacific Trust Bank. Maryland was chosen as the state of incorporation because it provides protections similar to Delaware with respect to takeover, indemnification and limitations on liability, with reduced franchise taxes. First PacTrust Bancorp, Inc. has received Office of Thrift Supervision approval to become a savings and loan holding company and is subject to regulation by that agency. After we complete the conversion, First PacTrust Bancorp, Inc. will be a unitary thrift holding company, which means that it will own one thrift institution. As a thrift holding company, First PacTrust Bancorp, Inc., activities will be limited to banking, securities, insurance and financial services-related activities. See "How We Are Regulated - First PacTrust Bancorp, Inc." First PacTrust Bancorp, Inc. will have no significant assets other than all of the outstanding shares of common stock of Pacific Trust Bank, the net proceeds it keeps and its loan to the First PacTrust Bancorp, Inc. employee stock ownership plan. First PacTrust Bancorp, Inc. will have no significant liabilities. See "How We Intend to Use the Proceeds." Initially, the management of First PacTrust Bancorp, Inc. and Pacific Trust Bank will be substantially the same. First PacTrust Bancorp, Inc. intends to utilize the support staff and offices of Pacific Trust Bank from time to time and will pay Pacific Trust Bank for these services. If First PacTrust Bancorp, Inc. expands or changes its business in the future, we may hire our own employees.

We believe the proposed holding company structure will give us more flexibility to change our business activities by forming new companies which we own, or by buying other companies, including other financial institutions and financial services companies. We do not have any current plans to do these things. First PacTrust Bancorp, Inc. intends to pay for its business activities with the proceeds it keeps from the conversion and the money we earn from investing the proceeds, as well as from dividends from Pacific Trust Bank. See "Our Policy Regarding Dividends."

The principal executive offices of First PacTrust Bancorp, Inc. will be located at 610 Bay Boulevard, Chula Vista, California, and its telephone number will be (619) 691-1519.

## **PACIFIC TRUST BANK**

Pacific Trust Bank is a federally chartered and insured mutual savings bank with seven full service offices. Pacific Trust Bank converted from a federal credit union to a federally chartered savings bank on January 1, 2000. At December 31, 2001, Pacific Trust Bank had total assets of \$310.1 million, total deposits of \$252.0 million and equity of \$28.7 million. For more information regarding the business and operations of Pacific Trust Bank, see "Management's Discussion and Analysis of Financial Condition and Results of Operations" and "Business of Pacific Trust Bank."

Pacific Trust Bank is examined and regulated by the Office of Thrift Supervision, its primary federal regulator. Pacific Trust Bank is also regulated by the FDIC. Pacific Trust Bank is required to have certain reserves set by the Federal Reserve Board and is a member of the Federal Home Loan Bank of San Francisco, which is one of the 12 regional banks in the Federal Home Loan Bank System.

The executive offices of Pacific Trust Bank are located at 610 Bay Boulevard, Chula Vista, California, and its telephone number is (619) 691-1519.

## **HOW WE INTEND TO USE THE PROCEEDS**

Although the actual net proceeds from the sale of the shares of common stock cannot be determined until the conversion is completed, we presently anticipate that the net proceeds from the sale of the shares of common stock will be between \$25.3 million and \$34.4 million and up to \$39.7 million assuming an increase in the estimated value of the common stock sold in the conversion by 15%. See "Pro Forma Data" and "Pacific Trust Bank's Conversion - How We Determined Our Price and the Number of Shares to be Issued in the Stock Offering" as to the assumptions used to arrive at such amounts.

We intend to use the net proceeds received from the stock offering, assuming completion of the offering at the maximum of the estimated offering range, as follows:

|              |                                                                                                                        |
|--------------|------------------------------------------------------------------------------------------------------------------------|
| \$14,368,000 | Retained by First PacTrust Bancorp, Inc. and initially placed in short-term investments for general corporate purposes |
| 2,852,000    | Employee stock ownership plan loan                                                                                     |
| 17,219,000   | Used to buy the stock of Pacific Trust Bank                                                                            |

First PacTrust Bancorp, Inc. will retain 50% of the net conversion proceeds from which the loan to be made to the employee stock ownership plan will be made, and will purchase all of the capital stock of Pacific Trust Bank to be issued in the conversion in exchange for the remaining conversion proceeds. First PacTrust Bancorp, Inc. intends to use a portion of the net proceeds to make a loan directly to the employee stock ownership plan to enable the employee stock ownership plan to purchase up to 8.0% of the shares of common stock issued in the conversion. Based upon the issuance of 2,635,000 shares of common stock and 3,565,000 shares of common stock at the minimum and maximum of the estimated offering range, respectively, the loan to the employee stock ownership plan would be \$2.1 million and \$2.9 million, respectively. See "Management - Benefits - Employee Stock Ownership Plan." The remaining net proceeds retained by First PacTrust Bancorp, Inc. initially may be used to invest in U.S. Government and federal agency securities of various maturities, mortgage-backed or other securities, deposits in either Pacific Trust Bank or other financial institutions, or a combination thereof. The net proceeds may ultimately be used to:

- support Pacific Trust Bank's lending activities;

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- repay borrowings in the ordinary course of business; or
- support the future expansion of operations through the establishment of additional banking offices or other customer facilities or through acquisitions of other financial institutions or branch offices, although no such acquisition transactions are specifically being considered at this time.

The net proceeds from the conversion may also be used for other business and investment purposes, including the payment of regular or special cash dividends, possible repurchases of the common stock or returns of capital. First PacTrust Bancorp, Inc. and Pacific Trust Bank have committed however, not to take any action to further the payment of any return of capital on the common stock during the one-year period subsequent to completion of the conversion. Management of First PacTrust Bancorp, Inc. may consider expanding or diversifying its activities, as such opportunities become available.

Following the completion of the conversion, to the extent permitted by the Office of Thrift Supervision and based upon then existing facts and circumstances, First PacTrust Bancorp, Inc.'s board of directors may determine to repurchase shares of common stock, subject to any applicable statutory and regulatory requirements. Such facts and circumstances may include but not be limited to:

- market and economic factors such as the price at which the stock is trading in the market, the volume of trading, the attractiveness of other investment alternatives in terms of the rate of return and risk involved in the investment, the ability to increase the book value and/or earnings per share of the remaining outstanding shares, and an improvement in First PacTrust Bancorp, Inc.'s return on equity;
- the avoidance of dilution to stockholders by not having to issue additional shares to cover the exercise of stock options or to fund employee stock benefit plans; and
- any other circumstances in which repurchases would be in the best interests of First PacTrust Bancorp, Inc. and its stockholders.

Any stock repurchases will be subject to the determination of First PacTrust Bancorp, Inc.'s board of directors that Pacific Trust Bank will be capitalized in excess of all applicable regulatory requirements after any such repurchases.

The portion of the net proceeds used by First PacTrust Bancorp, Inc. to purchase the capital stock of Pacific Trust Bank will be added to Pacific Trust Bank's general funds to be used for general corporate purposes, including increased lending activities. While the amount of net proceeds received by Pacific Trust Bank will further strengthen Pacific Trust Bank's capital position, which already substantially exceeds all regulatory requirements, Pacific Trust Bank is not converting to stock form primarily to raise capital. After the conversion, based upon the maximum of the estimated offering range, Pacific Trust Bank's tangible capital ratio will be approximately 14.0%. As a result, Pacific Trust Bank will continue to be a well-capitalized institution.

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The net proceeds may vary because total expenses of the conversion may be more or less than those estimated. The net proceeds will also vary if the number of shares to be issued in the conversion is adjusted to reflect a change in the estimated pro forma market value of Pacific Trust Bank. Payments for shares made through withdrawals from existing deposit accounts at Pacific Trust Bank will not result in the receipt of new funds for investment by Pacific Trust Bank but will result in a reduction of Pacific Trust Bank's interest expense and liabilities as funds are transferred from interest-bearing certificates or other deposit accounts.

## MARKET FOR THE COMMON STOCK

First PacTrust Bancorp, Inc. and Pacific Trust Bank have never issued capital stock, and, consequently, there is no established market for the common stock at this time. First PacTrust Bancorp, Inc. has applied to have its common stock quoted on the Nasdaq National Market under the symbol "FPTB." The development of a liquid public market depends on the existence of willing buyers and sellers, the presence of which is not within the control of First PacTrust Bancorp, Inc., Pacific Trust Bank or any market maker. Accordingly, the number of active buyers and sellers of the common stock at any particular time may be limited. First PacTrust Bancorp, Inc. intends to meet the requirements for listing on the Nasdaq National Market. There can be no assurance, however, that purchasers will be able to sell their shares at or above the purchase price.

## OUR POLICY REGARDING DIVIDENDS

The board of directors of First PacTrust Bancorp, Inc. currently intends to pay cash dividends on the common stock in the future. However, the amount and timing of any dividends has not yet been determined. The payment of dividends will depend upon a number of factors, including capital requirements, First PacTrust Bancorp, Inc.'s and Pacific Trust Bank's financial condition and results of operations, tax considerations, statutory and regulatory limitations and general economic conditions. No assurances can be given that any dividends will be paid or that, if paid, will not be reduced or eliminated in future periods. Special cash dividends, stock dividends or returns of capital may, to the extent permitted by Office of Thrift Supervision policy and regulations, be paid in addition to, or in lieu of, regular cash dividends. First PacTrust Bancorp, Inc. intends to file consolidated tax returns with Pacific Trust Bank. Accordingly, it is anticipated that any cash distributions made by First PacTrust Bancorp, Inc. to its stockholders would be treated as cash dividends and not as a non-taxable return of capital for federal and state tax purposes.

Dividends from First PacTrust Bancorp, Inc. will depend, in large part, upon receipt of dividends from Pacific Trust Bank, because First PacTrust Bancorp, Inc. initially will have no source of income other than dividends from Pacific Trust Bank, earnings from the investment of proceeds from the sale of shares of common stock retained by First PacTrust Bancorp, Inc., and interest payments with respect to First PacTrust Bancorp, Inc.'s loan to the employee stock ownership plan. A regulation of the Office of Thrift Supervision imposes limitations on "capital distributions" by savings institutions. See "How We Are Regulated - Limitations on Dividends and Other Capital Distributions."

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## PRO FORMA DATA

The actual net proceeds from the sale of the common stock cannot be determined until the conversion is completed. However, net proceeds are currently estimated to be between \$25.3 million and \$34.4 million, or \$39.7 million in the event the estimated offering range is increased by 15%, based upon the following assumptions:

- all shares of common stock will be sold through non-transferable rights to subscribe for the common stock, in order of priority, to Eligible Account Holders, the employee stock ownership plan, Supplemental Eligible Account Holders, Other Members and Directors, Officers and Employees;
- Keefe, Bruyette & Woods, Inc. will receive a marketing fee equal to 1.50% of the gross proceeds from the conversion, excluding shares of common stock sold to directors, officers, employees and the employee stock ownership plan;
- total expenses, excluding the marketing fees paid to Keefe, Bruyette & Woods, Inc., are estimated to be approximately \$775,000. Actual expenses may vary from those estimated.

Pro forma consolidated net income and stockholders' equity of First PacTrust Bancorp, Inc. have been calculated for the year ended December 31, 2001, as if the common stock to be issued in the conversion had been sold at the beginning of the period and the net proceeds had been invested at 2.17%, which represents the yield on one-year U.S. Government securities at December 31, 2001. In light of changes in interest rates in recent periods, this yield is deemed by First PacTrust Bancorp, Inc. and Pacific Trust Bank to more accurately reflect available reinvestment rates than the arithmetic average method. The effect of withdrawals from deposit accounts for the purchase of common stock has not been reflected. A tax rate of 41.15% has been assumed for periods resulting in an after-tax yield of 1.28% for the year ended December 31, 2001. Historical and pro forma per share amounts have been calculated by dividing historical and pro forma amounts by the indicated number of shares of common stock, as adjusted to give effect to the shares purchased by the employee stock ownership plan. See Note 3 to the tables below. No effect has been given in the pro forma stockholders' equity calculations for the assumed earnings on the net proceeds. As discussed under "How We Intend to Use the Proceeds," First PacTrust Bancorp, Inc. intends to make a loan to fund the purchase of 8.0% of the common stock by the employee stock ownership plan and intends to retain up to 50% of the net proceeds from the conversion.

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No effect has been given in the tables to the issuance of additional shares of common stock pursuant to the proposed stock option plan. See "Management - Benefits -- Other Stock Benefit Plans." The table below gives effect to the restricted stock plan, which is expected to be adopted by First PacTrust Bancorp, Inc. following the conversion and presented along with the stock option plan to stockholders for approval at an annual or special meeting of stockholders to be held at least six months following the completion of the conversion. If the restricted stock plan is approved by stockholders, the restricted stock plan intends to acquire an amount of common stock equal to 4.0% of the shares of common stock issued in the conversion, either through open market purchases or from authorized but unissued shares of common stock, if permissible. The table below assumes that stockholder approval has been obtained, as to which there can be no assurance, and that the shares acquired by the restricted stock plan are purchased in the open market at \$10.00 per share. No effect has been given to First PacTrust Bancorp, Inc.'s results of operations after the conversion, the market price of the common stock after the conversion or a less than 4.0% purchase by the restricted stock plan.

The pro forma stockholders' equity is not intended to represent the fair market value of the common stock and may be different than amounts that would be available for distribution to stockholders in the event of liquidation.

The following pro forma information may not be representative of the financial effects of the foregoing transactions at the dates on which such transactions actually occur and should not be taken as indicative of future results of operations. Pro forma stockholders' equity represents the difference between the stated amount of assets and liabilities of First PacTrust Bancorp, Inc. computed in accordance with accounting principles generally accepted in the United States of America ("GAAP").

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|                                                                   | At or For the Year Ended<br>December 31, 2001                             |                                                                            |                                                                           |                                                                                                          |
|-------------------------------------------------------------------|---------------------------------------------------------------------------|----------------------------------------------------------------------------|---------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
|                                                                   | 2,635,000<br>Shares Sold at<br>\$10.00 Per Share<br>(Minimum of<br>Range) | 3,100,000<br>Shares Sold at<br>\$10.00 Per Share<br>(Midpoint of<br>Range) | 3,565,000<br>Shares Sold at<br>\$10.00 Per Share<br>(Maximum of<br>Range) | 4,099,750<br>Shares Sold at<br>\$10.00 Per Share<br>(Maximum of<br>Range, as<br>Adjusted) <sup>(1)</sup> |
|                                                                   | (Dollars in Thousands)                                                    |                                                                            |                                                                           |                                                                                                          |
| Gross proceeds                                                    | \$26,350                                                                  | \$31,000                                                                   | \$35,650                                                                  | \$40,998                                                                                                 |
| Less offering expenses and commissions                            | 1,083                                                                     | 1,147                                                                      | 1,211                                                                     | 1,285                                                                                                    |
| Estimated net proceeds                                            | 25,267                                                                    | 29,853                                                                     | 34,439                                                                    | 39,713                                                                                                   |
| Less: Shares purchased by the employee stock ownership plan       | (2,108)                                                                   | (2,480)                                                                    | (2,852)                                                                   | (3,280)                                                                                                  |
| Shares purchased by the restricted stock plan                     | (1,054)                                                                   | (1,240)                                                                    | (1,426)                                                                   | (1,640)                                                                                                  |
| Estimated proceeds available for investment <sup>(2)</sup>        | \$22,105                                                                  | \$26,133                                                                   | \$30,161                                                                  | \$34,793                                                                                                 |
| Net income <sup>(3)</sup> :                                       |                                                                           |                                                                            |                                                                           |                                                                                                          |
| Historical                                                        | \$ 2,096                                                                  | \$ 2,096                                                                   | \$ 2,096                                                                  | \$ 2,096                                                                                                 |
| Pro forma income on net proceeds                                  | 283                                                                       | 335                                                                        | 386                                                                       | 445                                                                                                      |
| Pro forma employee stock ownership plan adjustment <sup>(4)</sup> | (124)                                                                     | (146)                                                                      | (168)                                                                     | (193)                                                                                                    |
| Pro forma restricted stock plan adjustment <sup>(5)</sup>         | (124)                                                                     | (146)                                                                      | (168)                                                                     | (193)                                                                                                    |
| Pro forma net income                                              | \$ 2,131                                                                  | \$ 2,139                                                                   | \$ 2,146                                                                  | \$ 2,155                                                                                                 |
| Net income per share <sup>(3)(6)</sup> :                          |                                                                           |                                                                            |                                                                           |                                                                                                          |
| Historical                                                        | \$ 0.86                                                                   | \$ 0.73                                                                    | \$ 0.63                                                                   | \$ 0.55                                                                                                  |
| Pro forma income on net proceeds, as adjusted                     | 0.11                                                                      | 0.11                                                                       | 0.12                                                                      | 0.12                                                                                                     |

|                                                                                             |           |           |           |           |
|---------------------------------------------------------------------------------------------|-----------|-----------|-----------|-----------|
| Pro forma employee stock ownership plan adjustment <sup>(4)</sup>                           | (0.05)    | (0.05)    | (0.05)    | (0.05)    |
| Pro forma restricted stock plan adjustment <sup>(5)</sup>                                   | (0.05)    | (0.05)    | (0.05)    | (0.05)    |
| Pro forma net income per share <sup>(5)(7)</sup>                                            | \$ 0.87   | \$ 0.74   | \$ 0.65   | \$ 0.57   |
| Number of shares outstanding for pro forma net income per share calculations <sup>(6)</sup> | 2,445,280 | 2,876,800 | 3,308,320 | 3,804,568 |
| Offering price to pro forma net income per share <sup>(6)</sup>                             | 11.49x    | 13.51x    | 15.38x    | 17.54x    |

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|                                                                                                       | At or For the Year Ended<br>December 31, 2001                             |                                                                            |                                                                           |                                                                                                          |
|-------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|----------------------------------------------------------------------------|---------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
|                                                                                                       | 2,635,000<br>Shares Sold at<br>\$10.00 Per Share<br>(Minimum of<br>Range) | 3,100,000<br>Shares Sold at<br>\$10.00 Per Share<br>(Midpoint of<br>Range) | 3,565,000<br>Shares Sold at<br>\$10.00 Per Share<br>(Maximum of<br>Range) | 4,099,750<br>Shares Sold at<br>\$10.00 Per Share<br>(Maximum of<br>Range, as<br>Adjusted) <sup>(1)</sup> |
|                                                                                                       | (Dollars in Thousands)                                                    |                                                                            |                                                                           |                                                                                                          |
| Stockholders' equity:                                                                                 |                                                                           |                                                                            |                                                                           |                                                                                                          |
| Historical                                                                                            | \$28,721                                                                  | \$28,721                                                                   | \$28,721                                                                  | \$28,721                                                                                                 |
| Estimated net proceeds                                                                                | 25,267                                                                    | 29,853                                                                     | 34,439                                                                    | 39,713                                                                                                   |
| Less: Common stock acquired by the employee stock ownership plan <sup>(3)</sup>                       | (2,108)                                                                   | (2,480)                                                                    | (2,852)                                                                   | (3,280)                                                                                                  |
| Common stock to be acquired by the restricted stock plan <sup>(4)</sup>                               | (1,054)                                                                   | (1,240)                                                                    | (1,426)                                                                   | (1,640)                                                                                                  |
| Pro forma stockholders' equity <sup>(3)(4)(6)(7)</sup>                                                | \$50,826                                                                  | \$54,854                                                                   | \$58,882                                                                  | \$63,514                                                                                                 |
| Stockholders' equity per share <sup>(5)</sup> :                                                       |                                                                           |                                                                            |                                                                           |                                                                                                          |
| Historical                                                                                            | \$ 10.90                                                                  | \$ 9.26                                                                    | \$ 8.06                                                                   | \$ 7.01                                                                                                  |
| Estimated net proceeds                                                                                | 9.59                                                                      | 9.63                                                                       | 9.66                                                                      | 9.68                                                                                                     |
| Less: Common stock acquired by the employee stock ownership plan <sup>(3)</sup>                       | (0.80)                                                                    | (0.80)                                                                     | (0.80)                                                                    | (0.80)                                                                                                   |
| Common stock to be acquired by the restricted stock plan <sup>(4)</sup>                               | (0.40)                                                                    | (0.40)                                                                     | (0.40)                                                                    | (0.40)                                                                                                   |
| Pro forma stockholders' equity per share <sup>(3)(4)(6)(7)</sup>                                      | \$ 19.29                                                                  | \$ 17.69                                                                   | \$ 16.52                                                                  | \$ 15.49                                                                                                 |
| Offering price as a percentage of pro forma stockholders' equity <sup>(5)</sup>                       | 51.84%                                                                    | 56.53%                                                                     | 60.53%                                                                    | 64.56%                                                                                                   |
| Number of shares outstanding for pro forma stockholders' equity per share calculations <sup>(5)</sup> | 2,635,000                                                                 | 3,100,000                                                                  | 3,565,000                                                                 | 4,099,750                                                                                                |

<sup>(1)</sup>As adjusted to give effect to an increase in the number of shares which could occur due to an increase in the estimated offering range of up to 15% to reflect changes in market and financial conditions following the commencement of the conversion.

<sup>(2)</sup>Estimated proceeds available for investment consists of the estimated net proceeds from the conversion minus (i) the proceeds attributable to the purchase by the employee stock ownership plan and (ii) the value of the shares to be purchased by the restricted stock plan, subject to stockholder approval, after the conversion at an assumed purchase price of \$10.00 per share

<sup>(3)</sup>It is assumed that 8.0% of the shares of common stock issued in the conversion will be purchased by the employee stock ownership plan with funds loaned by First PacTrust Bancorp, Inc. First PacTrust Bancorp, Inc. and Pacific Trust Bank intend to make annual contributions to the employee stock ownership plan in an amount at least equal to the principal and interest requirement of the debt. The pro forma net earnings assumes (i) that the loan to the employee stock ownership plan is payable over 10 years, with the employee stock ownership plan shares having an average fair value of \$10.00 per share in accordance with SOP 93-6 of

the AICPA , entitled "Employers' Accounting for Employee Stock Ownership Plans," and (ii) the effective tax rate was 42% for the period. See "Management - Benefits -- Employee Stock Ownership Plan."

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(4)It is assumed that the restricted stock plan will purchase, following stockholder approval of such plan, a number of shares of common stock equal to 4.0% of the shares of common stock issued in the conversion for issuance to directors, officers and employees. Funds used by the restricted stock plan to purchase the shares initially will be contributed to the restricted stock plan by First PacTrust Bancorp, Inc. It is further assumed that the shares were acquired by the restricted stock plan at the beginning of the period presented in open market purchases at the \$10.00 purchase price and that 20% of the amount contributed, net of taxes, was an amortized expense during the year ended December 31, 2001. The issuance of authorized but unissued shares of common stock pursuant to the restricted stock plan in the amount of 4.0% of the common stock sold in the offering would dilute the voting interests of existing stockholders by approximately 3.8% and under such circumstances pro forma net earnings per share for the year ended December 31, 2001 would be \$.84, \$.72, \$.63 and \$.55, at the minimum, midpoint, maximum and 15% above the maximum of the estimated offering range, respectively, and pro forma stockholders' equity per share at December 31, 2001 would be \$18.93, \$17.40, \$16.27 and \$15.28 at the minimum, midpoint, maximum and 15% above the maximum of such range, respectively. There can be no assurance that the actual purchase price of shares purchased by or issued to the restricted stock plan will be \$10.00 per share. See "Management - Benefits -- Other Stock Benefit Plans."

(5)The per share calculations are determined by adding the number of shares sold in the conversion and for purposes of calculating net income per share, in accordance with SOP 93-6, subtracting 189,720 shares, 223,200 shares, 256,680 shares, and 295,182shares, at the minimum, midpoint, maximum and 15% above the maximum of the offering range, respectively, representing the employee stock ownership plan shares which have not been committed for release during the year ended December 31, 2001. See note 3 above. For purposes of calculating pro forma stockholders' equity per share, it is assumed that shares outstanding total 2,635,000 shares at the minimum of the estimated pro forma market value of Pacific Trust Bank on a fully converted basis, or the estimated valuation range, 3,100,000 shares at the midpoint of the range, 3,565,000 shares at the maximum of the range and 4,099,750 shares at 15% above the maximum of the range, respectively.

(6)No effect has been given to the issuance of additional shares of common stock pursuant to the stock option plan, which will be adopted by First PacTrust Bancorp, Inc. following the conversion and presented for approval by stockholders at an annual or special meeting of stockholders of First PacTrust Bancorp, Inc. held at least six months following the completion of the conversion. If the stock option plan is approved by stockholders, an amount equal to 10% of the common stock issued in the conversion, or 263,500 shares at the minimum of the estimated offering range, 310,000 shares at the midpoint of the range, 356,500 shares at the maximum of the range and 409,975 shares at 15% above the maximum of the range, respectively, will be reserved for future issuance upon the exercise of options to be granted under the stock option plan. The issuance of common stock pursuant to the exercise of options under the stock option plan will result in the dilution of existing stockholders' voting interests by approximately 9.1%. Assuming stockholder approval of the stock option plan, that all these options were exercised at the beginning of the period at an exercise price of \$10.00 per share and that the shares to fund the restricted stock plan are acquired through open market purchases at the purchase price, pro forma net earnings per share for the year ended December 31, 2001 would be \$0.80, \$.68, \$.60, and \$.52 at the minimum, midpoint, maximum and 15% above the maximum of the estimated offering range, respectively, and pro forma stockholders' equity per share at December 31, 2001 would be \$18.44, \$17.00, \$15.92 and \$14.99 at the minimum, midpoint, maximum and 15% above the maximum of the range, respectively. See "Management - Benefits -- Other Stock Benefit Plan."

(7)The equity capital of Pacific Trust Bank will be substantially restricted because of the liquidation account set up in connection with this offering and certain distributions from Pacific Trust Bank's equity capital may be treated as being from its accumulated bad debt reserve for tax purposes, which would cause Pacific Trust Bank to have additional taxable income. See "Taxation - Federal Taxation." Pro forma stockholders' equity and pro forma stockholders' equity per share do not give effect to the bad debt reserves established by Pacific Trust Bank for federal income tax purposes in the event of a liquidation of Pacific Trust Bank.

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## CAPITALIZATION

The following table presents the historical capitalization of Pacific Trust Bank at December 31, 2001, and the pro forma consolidated capitalization of First PacTrust Bancorp, Inc. after giving effect to the conversion, based upon the sale of the number of shares shown below and the other assumptions set forth under "Pro Forma Data."

| First PacTrust Bancorp, Inc. - Pro Forma<br>Based Upon Sale at \$10.00 Per Share |                                                       |                                              |                                               |                                              |                                                                             |
|----------------------------------------------------------------------------------|-------------------------------------------------------|----------------------------------------------|-----------------------------------------------|----------------------------------------------|-----------------------------------------------------------------------------|
|                                                                                  | Pacific Trust<br>Bank<br>Historical<br>Capitalization | 2,635,000<br>Shares<br>(Minimum of<br>Range) | 3,100,000<br>Shares<br>(Midpoint of<br>Range) | 3,565,000<br>Shares<br>(Maximum of<br>Range) | 4,099,750<br>Shares <sup>(1)</sup><br>(Maximum of<br>Range, as<br>Adjusted) |
| (In Thousands)                                                                   |                                                       |                                              |                                               |                                              |                                                                             |
| Deposits <sup>(2)</sup>                                                          | \$251,954                                             | \$251,954                                    | \$251,954                                     | \$251,954                                    | \$251,954                                                                   |
| Borrowings                                                                       | 28,000                                                | 28,000                                       | 28,000                                        | 28,000                                       | 28,000                                                                      |

|                                                                                                               |           |           |           |           |           |
|---------------------------------------------------------------------------------------------------------------|-----------|-----------|-----------|-----------|-----------|
| Total deposits and borrowings                                                                                 | \$279,954 | \$279,954 | \$279,954 | \$279,954 | \$279,954 |
| Stockholders' equity                                                                                          |           |           |           |           |           |
| Preferred stock, \$0.01 par value, 5,000,000 shares authorized, none issued                                   | \$ ---    | \$ ---    | \$ ---    | \$ ---    | \$ ---    |
| Common stock, \$0.01 par value, 20,000,000 shares authorized; shares to be issued as reflected <sup>(3)</sup> | ---       | 26        | 31        | 36        | 41        |
| Additional paid-in capital                                                                                    | ---       | 25,241    | 29,822    | 34,403    | 39,672    |
| Retained earnings                                                                                             | 28,669    | 28,669    | 28,669    | 28,669    | 28,669    |
| Net unrealized gain                                                                                           | 52        | 52        | 52        | 52        | 52        |
| Less:                                                                                                         |           |           |           |           |           |
| Common stock to be acquired by the employee stock ownership plan <sup>(4)</sup>                               | ---       | (2,108)   | (2,480)   | (2,852)   | (3,280)   |
| Common stock to be acquired by the restricted stock plan <sup>(5)</sup>                                       | ---       | (1,054)   | (1, 240)  | (1,426)   | (1,640)   |
| Total stockholders' equity                                                                                    | \$ 28,721 | \$ 50,826 | \$ 54,854 | \$ 58,882 | \$ 63,514 |

<sup>(1)</sup>As adjusted to give effect to an increase in the number of shares which could occur due to an increase in the estimated offering range of up to 15% to reflect changes in market and financial conditions following the commencement of the conversion.

<sup>(2)</sup>Does not reflect withdrawals from deposit accounts for the purchase of common stock in the conversion. Any withdrawals would reduce pro forma deposits by the amount of the withdrawals.

<sup>(3)</sup>Reflects the issuance of the shares of common stock to be sold in the conversion. No effect has been given to the issuance of additional shares of common stock pursuant to the proposed stock option plan. See "Pro Forma Data" and "Management - Benefits - Other Stock Benefit Plans."

<sup>(4)</sup>Assumes that 8.0% of the common stock issued in the conversion will be purchased by the employee stock ownership plan, which is reflected as a reduction from stockholders' equity. The employee stock ownership plan shares will be purchased with funds loaned to the employee stock ownership plan by First PacTrust Bancorp, Inc. See "Pro Forma Data" and "Management - Benefits -- Employee Stock Ownership Plan."

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<sup>(5)</sup>First PacTrust Bancorp, Inc. intends to adopt the restricted stock plan and to submit such plan to stockholders at an annual or special meeting of stockholders held at least six months following the completion of the conversion. If the plan is approved by stockholders, First PacTrust Bancorp, Inc. intends to contribute sufficient funds to the restricted stock plan to enable the plan to purchase a number of shares of common stock equal to 4.0% of the common stock issued in the conversion. Assumes that stockholder approval has been obtained and that the shares have been purchased in the open market at the purchase price. However, in the event First PacTrust Bancorp, Inc. issues authorized but unissued shares of common stock to the restricted stock plan in the amount of 4.0% of the common stock issued in the conversion, the voting interests of existing stockholders would be diluted approximately 3.8%. The shares are reflected as a reduction of stockholders' equity. See "Pro Forma Data" and "Management - Benefits -- Other Stock Benefit Plans."

## PACIFIC TRUST BANK EXCEEDS ALL REGULATORY CAPITAL REQUIREMENTS

At December 31, 2001, Pacific Trust Bank exceeded all of the regulatory capital requirements applicable to it. The table on the following page sets forth the historical regulatory capital of Pacific Trust Bank at December 31, 2001 and the pro forma regulatory capital of Pacific Trust Bank after giving effect to the conversion, based upon the sale of the number of shares shown in the table. The pro forma regulatory capital amounts reflect the receipt by Pacific Trust Bank of 50% of the net stock proceeds, after expenses. The pro forma risk-based capital amounts assume the investment of the net proceeds received by Pacific Trust Bank in assets which have a risk-weight of 20% under applicable regulations, as if such net proceeds had been received and so applied at December 31, 2001.

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|                           | Pro Forma at December 31, 2001     |                                     |                                               |                      |                                               |                      |                                               |                      |                                               |                      |
|---------------------------|------------------------------------|-------------------------------------|-----------------------------------------------|----------------------|-----------------------------------------------|----------------------|-----------------------------------------------|----------------------|-----------------------------------------------|----------------------|
|                           | Historical at<br>December 31, 2001 |                                     | 2,635,000 Shares<br>Sold at \$10.00 per Share |                      | 3,100,000 Shares<br>Sold at \$10.00 per Share |                      | 3,565,000 Shares<br>Sold at \$10.00 per Share |                      | 4,099,750 Shares<br>Sold at \$10.00 per Share |                      |
|                           | Amount                             | Percent of<br>Assets <sup>(1)</sup> | Amount                                        | Percent of<br>Assets | Amount                                        | Percent of<br>Assets | Amount                                        | Percent of<br>Assets | Amount                                        | Percent of<br>Assets |
| (Dollars in Thousands)    |                                    |                                     |                                               |                      |                                               |                      |                                               |                      |                                               |                      |
| Equity capital under GAAP | \$28,721                           | 9.26%                               | \$41,355                                      | 12.81%               | \$43,648                                      | 13.43%               | \$45,940                                      | 14.04%               | \$48,578                                      | 14.72%               |
| Tangible capital:         |                                    |                                     |                                               |                      |                                               |                      |                                               |                      |                                               |                      |
| Actual                    | \$28,669                           | 9.24%                               | \$41,303                                      | 12.80%               | \$43,596                                      | 13.41%               | \$45,888                                      | 14.02%               | \$48,526                                      | 14.71%               |
| Requirement               | 4,652                              | 1.50                                | 4,841                                         | 1.50                 | 4,875                                         | 1.50                 | 4,909                                         | 1.50                 | 4,949                                         | 1.50                 |
| Excess                    | \$24,017                           | 7.74%                               | \$36,462                                      | 11.30%               | \$38,721                                      | 11.91%               | \$40,979                                      | 12.52%               | \$43,577                                      | 13.21%               |
| Core capital:             |                                    |                                     |                                               |                      |                                               |                      |                                               |                      |                                               |                      |
| Actual                    | \$28,669                           | 9.24%                               | \$41,303                                      | 12.80%               | \$43,596                                      | 13.41%               | \$45,888                                      | 14.02%               | \$48,526                                      | 14.71%               |
| Requirement               | 12,413                             | 4.00                                | 12,098                                        | 4.00                 | 13,000                                        | 4.00                 | 13,092                                        | 4.00                 | 13,197                                        | 4.00                 |
| Excess                    | \$16,256                           | 5.24%                               | \$28,395                                      | 8.80%                | \$30,596                                      | 9.41%                | \$32,796                                      | 10.02%               | \$35,329                                      | 10.71%               |
| Risk-based capital        |                                    |                                     |                                               |                      |                                               |                      |                                               |                      |                                               |                      |
| Actual                    | \$30,389                           | 15.40%                              | \$43,023                                      | 21.52%               | \$45,316                                      | 22.62%               | \$47,608                                      | 23.71%               | \$50,246                                      | 24.96%               |
| Requirement               | 15,789                             | 8.00                                | 15,991                                        | 8.00                 | 16,028                                        | 8.00                 | 16,064                                        | 8.00                 | 16,106                                        | 8.00                 |
| Excess                    | \$14,600                           | 7.40%                               | \$27,032                                      | 13.52%               | \$29,288                                      | 14.62%               | \$31,544                                      | 15.71%               | \$34,140                                      | 16.96%               |

<sup>(1)</sup> Adjusted total or adjusted risk-weighted assets, as appropriate.

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## PACIFIC TRUST BANK'S CONVERSION

*The board of directors of Pacific Trust Bank and the Office of Thrift Supervision have approved the plan of conversion. Office of Thrift Supervision approval is subject to approval of the plan of conversion by our members and to the satisfaction of certain other conditions imposed by the Office of Thrift Supervision. Office of Thrift Supervision approval does not constitute a recommendation or endorsement of the plan of conversion.*

## General

On March 1, 2002, we adopted a plan of conversion, pursuant to which we will convert from a federally chartered mutual savings institution to a federally chartered stock savings institution and at the same time become a wholly owned subsidiary of First PacTrust Bancorp, Inc. The conversion will include adoption of the proposed federal stock charter and bylaws, which will authorize us to issue capital stock. Under the plan, Pacific Trust Bank common stock is being sold to First PacTrust Bancorp, Inc. and First PacTrust Bancorp, Inc. common stock is being offered to our eligible depositors, the employee stock ownership plan, directors, officers and employees, other members, and then to the public. The conversion will be accounted for at historical cost in accordance with Statement of Financial Accounting Standards No. 141, *Business Combinations*. The Office of Thrift Supervision has approved First PacTrust Bancorp, Inc.'s application to become a savings and loan holding company and to acquire all of Pacific Trust Bank's common stock to be issued in the conversion.

The shares of First PacTrust Bancorp, Inc. common stock are first being offered in a subscription offering to holders of subscription rights. To the extent shares of common stock remain available after the subscription offering, shares may be offered in a direct community offering on a best efforts basis through Keefe, Bruyette & Woods, Inc. in such a manner as to promote a wide distribution of the shares. The direct community offering, if any, may commence with, at any time during, or as soon as practicable after the commencement of the subscription offering. Shares not subscribed for in the subscription offering and direct community offering may be offered for sale on a best efforts basis in a public offering conducted by Keefe, Bruyette & Woods, Inc. We have the right, in our sole discretion, to accept or reject, in whole or in part, any orders to purchase shares of common stock received in the direct community offering and the public offering. See "- Direct Community Offering" and "- Public Offering."

Subscriptions for shares will be subject to the maximum and minimum purchase limitations set forth in the plan of conversion. See "- Limitations on Stock Purchases."

The completion of the offering is subject to market conditions and other factors beyond our control. No assurance can be given as to the length of time following approval of the plan at the meeting of our members that will be required to complete the sale of shares being offered in the conversion. If delays are experienced, significant changes may occur in the estimated offering range with corresponding changes in the offering price and the net proceeds to be realized by us from the sale of the shares. In the event the conversion is terminated, we will charge all conversion expenses against current income and any funds collected by us in the offering will be promptly returned, with interest, to each subscriber.

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## Our Reasons for the Corporate Change

As a mutual institution, Pacific Trust Bank has no authority to issue shares of capital stock and consequently has no access to market sources of equity capital. Only by generating and retaining earnings from year to year is Pacific Trust Bank able to increase its capital position. This conversion is another step in our strategic plan to increase our capital and expand our operations. The first step was completed on January 1, 2000, when Pacific Trust Federal Credit Union converted to Pacific Trust Bank.

As a stock corporation upon completion of the conversion, Pacific Trust Bank will be organized in the form used by commercial banks, most major corporations and a majority of savings institutions. The ability to raise new equity capital through the issuance and sale of Pacific Trust Bank's or Pacific Trust's capital stock will allow Pacific Trust Bank the flexibility to increase its capital position more rapidly than by accumulating earnings and at times deemed advantageous by the board of directors of Pacific Trust Bank. It will also support future growth and expanded operations, including increased lending and investment activities, as business and regulatory needs require. The ability to attract new capital also will help Pacific Trust Bank better address the needs of the communities it serves and enhance its ability to make acquisitions or expand into new businesses. The acquisition alternatives available to Pacific Trust Bank are quite limited as a mutual institution, because of a requirement in Office of Thrift Supervision regulations that the surviving institution in a merger involving a mutual institution generally must be in mutual form. After the conversion, Pacific Trust Bank will have increased ability to merge with other institutions and First PacTrust Bancorp, Inc. may acquire control of other stock savings associations and retain the acquired institution as a separate subsidiary of First PacTrust Bancorp, Inc. Finally, the ability to issue capital stock will enable Pacific Trust Bank to establish stock compensation plans for directors, officers and employees, giving them equity interests in First PacTrust Bancorp, Inc. and greater incentive to improve its performance. For a description of the stock compensation plans which will be adopted by us in connection with the conversion, see "Management."

After considering the advantages and disadvantages of the conversion, as well as applicable fiduciary duties and alternative transactions, the board of directors of Pacific Trust Bank approved the conversion as being in the best interests of Pacific Trust Bank and equitable to its account holders.

## Effects of the Conversion

**General.** The conversion will have no effect on Pacific Trust Bank's present business of accepting deposits and investing its funds in loans and other investments permitted by law. The conversion will not result in any change in the existing services provided to depositors and borrowers, or in existing offices, management and staff. Pacific Trust Bank will continue to be subject to regulation, supervision and examination by the Office of Thrift Supervision and the FDIC.

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**Deposits and Loans.** Each holder of a deposit account in Pacific Trust Bank at the time of the conversion will continue as an account holder in Pacific Trust Bank after the conversion, and the conversion will not affect the deposit balance, interest rate or other terms of such accounts. Each account will be insured by the FDIC to the same extent as before the conversion. Depositors in Pacific Trust Bank will continue to hold their existing certificates, passbooks and other evidence of their accounts. The conversion will not affect the loan terms of any borrower from Pacific Trust Bank. The amount, interest rate, maturity, security for and obligations under each loan will remain as they existed prior to the conversion. See "-- Voting Rights" and "-- Depositors' Rights if We Liquidate" below for a discussion of the effects of the conversion on the voting and liquidation rights of the depositors of Pacific Trust Bank.

**Continuity.** During the conversion process, the normal business of Pacific Trust Bank of accepting deposits and making loans will continue without interruption. Following completion of the conversion, Pacific Trust Bank will continue to be subject to regulation by the Office of Thrift Supervision, and FDIC insurance of accounts will continue without interruption. After the conversion, Pacific Trust Bank will continue to provide services for depositors and borrowers under current policies and by its present management and staff.

The board of directors presently serving Pacific Trust Bank will serve as the board of directors of Pacific Trust Bank after the conversion. The initial members of the board of directors of First PacTrust Bancorp, Inc. will consist of the individuals currently serving on the board of directors of Pacific Trust Bank. After the conversion, the voting stockholders of First PacTrust Bancorp, Inc. will elect approximately one-third of First PacTrust Bancorp, Inc.'s directors annually. All current officers of Pacific Trust Bank will retain their positions with Pacific Trust Bank after the conversion.

**Voting Rights.** After completion of the conversion, depositor members will have no voting rights in Pacific Trust Bank or First PacTrust Bancorp, Inc. and, therefore, will not be able to elect directors of Pacific Trust Bank or First PacTrust Bancorp, Inc. or to control their affairs. Currently these rights are held by depositors of Pacific Trust Bank. After the conversion, voting rights in First PacTrust Bancorp, Inc. will be vested exclusively in the stockholders of First PacTrust Bancorp, Inc., which will own all of the stock of Pacific Trust Bank. Each holder of common stock will be entitled to vote on any matter to be considered by the stockholders of First PacTrust Bancorp, Inc., subject to the provisions of First PacTrust Bancorp, Inc.'s charter.

**Depositor's Rights if We Liquidate.** We have no plans to liquidate, either before or after the completion of the conversion. However, if there should ever be a complete liquidation of Pacific Trust Bank, either before or after conversion, deposit account holders would receive the protection of insurance by the FDIC up to applicable limits. In addition, liquidation rights before and after the conversion would be as follows:

*Liquidation Rights in Present Mutual Institution.* In addition to the protection of FDIC insurance up to applicable limits, in the event of the complete liquidation of Pacific Trust Bank, each holder of a deposit account would receive his or her pro rata share of any assets of Pacific Trust Bank remaining after payment of claims of all creditors (including the claims of all depositors in the amount of the withdrawal value of their accounts). Each holder's pro rata share of the remaining assets, if any, would be in the same proportion of the assets as the balance in his or her deposit account was to the aggregate balance in all our deposit accounts at the time of liquidation.

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*Liquidation Rights in Proposed Converted Institution.* After conversion, each deposit account holder, in the event of the complete liquidation of Pacific Trust Bank, would have a claim of the same general priority as the claims of all our other general creditors in addition to the protection of FDIC insurance up to applicable limits. Therefore, except as described below, the deposit account holder's claim would be solely in the amount of the balance in his or her deposit account plus accrued interest. A deposit account holder would have no interest in the assets of Pacific Trust Bank above that amount, if any.

The plan of conversion provides for the establishment, upon the completion of the conversion, of a special "liquidation account" for the benefit of eligible account holders (*i.e.*, eligible depositors at December 31, 1999) and supplemental account holders (*i.e.*, eligible depositors at March 31, 2002). Each eligible account holder and supplemental eligible account holder, if he or she continues to maintain his or her deposit account with Pacific Trust Bank, would be entitled upon the complete liquidation of Pacific Trust Bank after conversion, to an interest in the liquidation account prior to any payment to stockholders. Each eligible account holder would have an initial interest in the liquidation account for each deposit account held with Pacific Trust Bank on the qualifying date, December 31, 1999. Each supplemental eligible account holder would have a similar interest as of that qualifying date, March 31, 2002. The interest as to each deposit account would be in the same proportion of the total liquidation account as the balance of the deposit account on the qualifying dates was to the aggregate balance in all the deposit accounts of eligible account holders and supplemental eligible account holders on the qualifying dates. However, if the amount in the deposit account on any annual closing date (December 31) is less than the amount in the account on the respective qualifying dates, then the interest in this special liquidation account would be reduced at that time by an amount proportionate to any reduction, and the interest would cease to exist if the deposit account was closed. The interest in the special liquidation account will never be increased despite any increase in the related deposit account after the respective qualifying dates.

Any assets remaining after the above liquidation rights of eligible account holders and supplemental eligible account holders were satisfied would be distributed to First PacTrust Bancorp, Inc. as the sole stockholder of Pacific Trust Bank.

**Tax Effects of the Conversion.** Pacific Trust Bank has received an opinion from its special counsel, Silver, Freedman & Taff, L.L.P., Washington, D.C., as to the material federal income tax consequences of the conversion to Pacific Trust Bank and First PacTrust Bancorp, Inc., and as to the generally applicable material federal income tax consequences of the conversion on Pacific Trust Bank's account holders and to persons who purchase common stock in the offering.

The opinion provides that, among other things:

- Pacific Trust Bank's adoption of a charter in stock form will qualify as a tax-free reorganization under Internal Revenue Code of 1986, as amended, Section 368(a)(1)(F);
- no gain or loss will be recognized by Pacific Trust Bank solely as a result of the conversion to stock form;
- no gain or loss will be recognized by Pacific Trust Bank's account holders upon the issuance to them of accounts in Pacific Trust Bank, in stock form, immediately after the conversion, in the same dollar amounts and on the same terms and conditions as their accounts at Pacific Trust Bank immediately prior to the conversion;
- the tax basis of each account holder's interest in the liquidation account received in the conversion will be equal to the value, if any, of that interest on the date and at the time of the conversion;
- the tax basis of the common stock purchased in the conversion will be equal to the amount paid therefor; increased, in the case of common stock acquired pursuant to the exercise of subscription rights, by the fair market value, if any, of such subscription rights;
- the holding period of the common stock purchased pursuant to the exercise of subscription rights will commence upon the exercise of such holder's subscription rights and, in all other cases, the holding period of purchased common stock will commence on the date following the date of such purchase; and
- gain, if any, will be recognized by account holders upon the receipt of subscription rights and/or interests in the liquidation account in the conversion, but in an amount not in excess of the fair market value of the subscription rights and/or interests in the liquidation account received by the account holders.
- First PacTrust Bancorp, Inc. and Pacific Trust Bank have received a letter from RP Financial, which provides that the subscription rights do not have any value at the time of distribution or exercise. Moreover, the Silver, Freedman & Taff, L.L.P. opinion concludes that it is more likely than not that: (a) no taxable income will be recognized by eligible subscribers upon the distribution to them of subscription rights or upon the exercise or lapse of the subscription rights to acquire common stock in the conversion; and (b) no taxable income will be realized by First PacTrust Bancorp, Inc. or Pacific Trust Bank on the issuance or distribution of subscription rights to depositors of Pacific Trust Bank to purchase common stock in the conversion. Silver, Freedman & Taff, L.L.P. has also concluded that the liquidation account will have nominal, if any, fair market value.

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- If the subscription rights granted to eligible subscribers are deemed to have value, income may be recognized by various recipients of these rights (in certain cases, whether or not the rights are exercised), as capital gain and/or ordinary income, and First PacTrust Bancorp, Inc. and Pacific Trust Bank could recognize gain on the distribution of these rights. Eligible subscribers are encouraged to consult with their own tax advisor regarding any tax consequences if subscription rights are deemed to have value.

The opinion of Silver, Freedman & Taff, L.L.P. is based in part upon, and subject to the continuing validity in all material respects through the date of the conversion of various representations of Pacific Trust Bank and upon certain assumptions and qualifications, including that the conversion is completed in the manner and according to the terms provided in the plan of conversion. This opinion is also based upon the Internal Revenue Code, regulations now in effect or proposed, current administrative rulings and practice and judicial authority, all of which are subject to change and any change may be made with retroactive effect. Unlike private letter rulings received from the IRS, an opinion is not binding upon the IRS and there can be no assurance that the IRS will not take a position contrary to the positions reflected in this opinion, or that this opinion will be upheld by the courts if challenged by the IRS.

Pacific Trust Bank has also obtained an opinion from Crowe Chizek & Company LLP that the income tax effects of the conversion under California tax laws will be substantially the same as described above with respect to federal income tax laws.

First PacTrust Bancorp, Inc. and Pacific Trust Bank have received a letter from RP Financial, stating its belief that the subscription rights do not have any value, based on the fact that these rights are acquired by the recipients without cost, are nontransferable and of short duration, and give the recipients the right only to purchase the common stock at a price equal to its estimated fair market value, which will be the same price as the purchase price for the unsubscribed shares of common stock. If the subscription rights granted to eligible subscribers are deemed to have an ascertainable value, receipt of these rights would be taxable probably only to those eligible subscribers who exercise the subscription rights, either as a capital gain or ordinary income, in an amount equal to such value, and First PacTrust Bancorp, Inc. and Pacific Trust Bank could recognize gain on any distribution. Eligible subscribers are encouraged to consult with their own tax advisor as to the tax consequences in the event that subscription rights are deemed to have an ascertainable value. Unlike private rulings, the letter of RP Financial is not binding on the IRS, and the IRS could disagree with conclusions reached in the letter. In the event of any disagreement, there can be no assurance that the IRS would not prevail in a judicial or administrative proceeding.

### **How We Determined Our Price and the Number of Shares to be Issued in the Stock Offering**

The plan of conversion requires that the purchase price of the common stock must be based on the appraised pro forma market value of First PacTrust Bancorp, Inc. and Pacific Trust Bank, as determined on the basis of an independent valuation. Pacific Trust Bank has retained RP Financial to make this valuation. For its services in making this appraisal, RP Financial's fees and out-of-pocket expenses are estimated to be \$37,500. Pacific Trust Bank has agreed to indemnify RP Financial and any employees of RP Financial who act for or on behalf of RP Financial in connection with the appraisal against any and all loss, cost, damage, claim, liability or expense of any kind, including claims under federal and state securities laws, arising out of any misstatement or untrue statement of a material fact or an omission to state a material fact in the information supplied by Pacific Trust Bank to RP Financial, unless RP Financial is determined to be negligent or otherwise at fault.

An appraisal has been made by RP Financial in reliance upon the information contained in this prospectus, including the financial statements. RP Financial also considered the following factors, among others:

- the present and projected operating results and financial condition of First PacTrust Bancorp, Inc. and Pacific Trust Bank and the economic and demographic conditions in Pacific Trust Bank's existing marketing areas;

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- certain historical, financial and other information relating to Pacific Trust Bank;
- a comparative evaluation of the operating and financial statistics of Pacific Trust Bank with those of other similarly situated publicly traded thrift holding companies; the aggregate size of the offering of the common stock;
- the impact of the conversion on Pacific Trust Bank's net worth and earnings potential;

- the proposed dividend policy of First PacTrust Bancorp, Inc. and Pacific Trust Bank; and
- the trading market for securities of comparable institutions and general conditions in the market for such securities.

In its review of the appraisal provided by RP Financial, the board of directors reviewed the methodologies and the appropriateness of the assumptions used by RP Financial in addition to the factors listed above, and the board of directors believes that these assumptions were reasonable.

On the basis of the foregoing, RP Financial has advised First PacTrust Bancorp, Inc. and Pacific Trust Bank that in its opinion, dated March 15, 2002, the estimated pro forma market value of the common stock, ranged from a minimum of \$26.4 million to a maximum of \$35.7 million with a midpoint of \$31.0 million. The board of directors of Pacific Trust Bank determined that the common stock should be sold at \$10.00 per share. Based on the estimated offering range and the purchase price, the number of shares of common stock that First PacTrust Bancorp, Inc. will issue will range from between 2,635,000 shares and 3,565,000 shares, with a midpoint of 3,100,000 shares. The estimated offering range may be amended with the approval of the Office of Thrift Supervision, if required, or if necessitated by subsequent developments in the financial condition of First PacTrust Bancorp, Inc. and Pacific Trust Bank or market conditions generally. In the event the estimated offering range is updated to amend the value of the common stock below \$26.4 million or above \$41.0 million, which is the maximum of the estimated offering range, as adjusted by 15%, a new appraisal will be filed with the SEC.

Based upon current market and financial conditions and recent practices and policies of the Office of Thrift Supervision, in the event First PacTrust Bancorp, Inc. receives orders for common stock in excess of \$35.7 million (the maximum of the estimated offering range) and up to \$41.0 million (the maximum of the estimated offering range, as adjusted by 15%), First PacTrust Bancorp, Inc. may be required by the Office of Thrift Supervision to accept all such orders. No assurances, however, can be made that First PacTrust Bancorp, Inc. will receive orders for common stock in excess of the maximum of the estimated offering range or that, if such orders are received, that all such orders will be accepted because First PacTrust Bancorp, Inc.'s final valuation and number of shares to be issued are subject to the receipt of an updated appraisal from RP Financial which reflects such an increase in the valuation and the approval of such increase by the Office of Thrift Supervision. In addition, an increase in the number of shares above 3,565,000 shares, will first be used, if necessary, to fill the order of the employee stock ownership plan. There is no obligation or understanding on the part of management to take and/or pay for any shares in order to complete the conversion.

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**RP Financial's valuation is not intended, and must not be construed, as a recommendation of any kind as to the advisability of purchasing these shares. RP Financial did not independently verify the consolidated financial statements and other information provided by Pacific Trust Bank, nor did RP Financial value independently the assets or liabilities of Pacific Trust Bank. The valuation considers Pacific Trust Bank as a going concern and should not be considered as an indication of the liquidation value of Pacific Trust Bank. Moreover, because this valuation is necessarily based upon estimates and projections of a number of matters, all of which are subject to change from time to time, no assurance can be given that persons purchasing common stock in the offerings will thereafter be able to sell such shares at prices at or above the purchase price or in the range of the valuation described above.**

Prior to completion of the conversion, the maximum of the estimated offering range may be increased up to 15% and the number of shares of common stock may be increased to 4,099,750 shares to reflect changes in market and financial conditions or to fill the order of the employee stock ownership plan, without the resolicitation of subscribers. See "- Limitations on Stock Purchases" as to the method of distribution and allocation of additional shares that may be issued in the event of an increase in the estimated offering range to fill unfilled orders in the subscription offering.

No sale of shares of common stock in the conversion may be completed unless prior to such completion RP Financial confirms that nothing of a material nature has occurred which, taking into account all relevant factors, would cause it to conclude that the aggregate value of the common stock to be issued is materially incompatible with the estimate of the aggregate consolidated pro forma market value of First PacTrust Bancorp, Inc. and Pacific Trust Bank. If this confirmation is not received, First PacTrust Bancorp, Inc. may cancel the conversion, extend the offering period and establish a new estimated offering range and/or estimated price range, extend, reopen or hold a new offering or take any other action the Office of Thrift Supervision may permit.

Depending upon market or financial conditions following the start of the subscription offering, the total number of shares of common stock may be increased or decreased without a resolicitation of subscribers, provided that the product of the total number of shares times the purchase price is not below the minimum or more than 15% above the maximum of the estimated offering range. In the event market or financial conditions change so as to cause the aggregate purchase price of the shares to be below the minimum of the estimated offering range or more than 15% above the maximum of such range, purchasers will be resolicited and be permitted to continue their orders, in which case they will need to reconfirm their subscriptions prior to the expiration of the resolicitation offering or their subscription funds will be promptly refunded with interest at Pacific Trust Bank's passbook rate of interest, or be permitted to modify or rescind their subscriptions. Any change in the estimated offering range must be approved by the Office of Thrift Supervision.

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An increase in the number of shares of common stock as a result of an increase in the estimated pro forma market value would decrease both a subscriber's ownership interest and First PacTrust Bancorp, Inc.'s pro forma net income and stockholders' equity on a per share basis while increasing pro forma net income and stockholders' equity on an aggregate basis. A decrease in the number of shares of common stock would increase both a subscriber's ownership interest and First PacTrust Bancorp, Inc.'s pro forma net income and stockholders' equity on a per share basis while decreasing pro forma net income and stockholders' equity on an aggregate basis. See "Risk Factors - We intend to grant stock options and restricted stock to the board and management following the conversion which could reduce your ownership interest" and "Pro Forma Data."

Copies of the appraisal report of RP Financial, including any amendments, and the detailed report of the appraiser setting forth the method and assumptions for the appraisal are available for inspection at the main office of Pacific Trust Bank and the other locations specified under "Additional Information."

### **Subscription Offering and Subscription Rights**

Under the plan of conversion, rights to subscribe for the purchase of common stock have been granted to the following persons in the following order of descending priority:

- depositors of Pacific Trust Bank with account balances of at least \$50.00 as of the close of business on December 31, 1999 ("Eligible Account Holders"),
- tax-qualified employee plans, ("Tax-Qualified Employee Plans"),
- depositors of Pacific Trust Bank, other than directors and officers of Pacific Trust Bank, with account balances of at least \$50.00 as of the close of business on March 31, 2002 ("Supplemental Eligible Account Holders"),
- Depositors of Pacific Trust Bank as of the close of business on \_\_\_\_\_, other than Eligible Account Holders or Supplemental Eligible Account Holders ("Other Members") and
- Directors, Officers and Employees of Pacific Trust Bank.

All subscriptions received will be subject to the availability of common stock after satisfaction of all subscriptions of all persons having prior rights in the subscription offering and to the maximum and minimum purchase limitations set forth in the plan of conversion and as described below under "- Limitations on Stock Purchases."

**Preference Category No.1:** Eligible Account Holders. Each Eligible Account Holder shall receive, without payment, first priority, nontransferable subscription rights to subscribe for shares of common stock in an amount equal to the greater of:

- (1) \$500,000 or 50,000 shares of common stock;
- (2) one-tenth of one percent of the total offering of shares of common stock; or

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- (3) 15 times the product (rounded down to the next whole number) obtained by multiplying the total number of shares of common stock to be issued by a fraction, of which the numerator is the amount of the qualifying deposit of the Eligible Account Holder and the denominator is the total amount of qualifying deposits of all Eligible Account Holders in Pacific Trust Bank in each case as of the close of business on December 31, 1999 (the "Eligibility Record Date"), subject to the overall purchase limitations.

See "- Limitations on Stock Purchases."

If there are not sufficient shares available to satisfy all subscriptions, shares first will be allocated among subscribing Eligible Account Holders so as to permit each such Eligible Account Holder, to the extent possible, to purchase a number of shares sufficient to make his total allocation equal to the lesser of the number of shares subscribed for or 100 shares. Thereafter, any shares remaining will be allocated among the subscribing Eligible Account Holders whose subscriptions remain unfilled pro rata in the proportion that the amounts of their respective qualifying deposits bear to the total amount of qualifying deposits of all subscribing Eligible Account Holders whose subscriptions remain unfilled. For example, if an Eligible Account Holder with an unfilled

subscription has qualifying deposits totaling \$100, and the total amount of qualifying deposits for Eligible Account Holders with unfilled subscriptions was \$1,000, then the number of shares that may be allocated to fill this Eligible Account Holder's subscription would be 10% of the shares remaining available, up to the amount subscribed for. Subscription Rights of Eligible Account Holders will be subordinated to the priority rights of Tax-Qualified Employee Plans to purchase shares in excess of the maximum of the estimated offering range.

To ensure proper allocation of stock, each Eligible Account Holder must list on his subscription order form all accounts in which he has an ownership interest. Failure to list an account could result in fewer shares being allocated than if all accounts had been disclosed. The subscription rights of Eligible Account Holders who are also directors or officers of Pacific Trust Bank or their associates will be subordinated to the subscription rights of other Eligible Account Holders to the extent attributable to increased deposits in the year preceding December 31, 1999.

**Preference Category No. 2:** Tax-Qualified Employee Plans. Each Tax-Qualified Employee Plan, including the employee stock ownership plan shall be entitled to receive, without payment therefor, second priority, nontransferable subscription rights to purchase up to 10% of the common stock, provided that individually or in the aggregate such plans (other than that portion of such plans which is self-directed) shall not purchase more than 10% of the shares of common stock, including any increase in the number of shares of common stock after the date hereof as a result of an increase of up to 15% in the maximum of the estimated offering range. The employee stock ownership plan intends to purchase 8.0% of the shares of common stock issued in the conversion, or 210,800 shares and 285,200 shares based on the minimum and maximum of the estimated offering range, respectively. Subscriptions by any of the Tax-Qualified Employee Plans will not be aggregated with shares of common stock purchased directly by or which are otherwise attributable to any other participants in the subscription and direct community offerings, including subscriptions of any of Pacific Trust Bank's directors,

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officers, employees or associates thereof. Subscription rights received pursuant to this category shall be subordinated to all rights received by Eligible Account Holders to purchase shares pursuant to category No.1; provided, however, that notwithstanding any other provision of the plan of conversion to the contrary, the Tax-Qualified Employee Plans shall have a first priority subscription right to the extent that the total number of shares of common stock sold in the conversion exceeds the maximum of the estimated offering. In the event that the total number of shares offered in the conversion is increased to an amount greater than the number of shares representing the maximum of the estimated offering range, each Tax-Qualified Employee Plan will have a priority right to purchase any such shares exceeding the maximum of the estimated offering range up to an aggregate of 10% of the common stock sold in the conversion. See "Management - Benefits -- Employee Stock Ownership Plan."

**Preference Category No. 3:** Supplemental Eligible Account Holders. To the extent that there are sufficient shares remaining after satisfaction of subscriptions by Eligible Account Holders and the Tax-Qualified Employee Plans, each Supplemental Eligible Account Holder shall be entitled to receive, without payment therefor, third priority, nontransferable subscription rights to subscribe for shares of common stock in an amount equal to the greater of:

- (1) 500,000 or 50,000 shares of common stock;
- (2) one-tenth of one percent of the total offering of shares of common stock; or
- (3) 15 times the product (rounded down to the next whole number) obtained by multiplying the total number of shares of common stock to be issued by a fraction, of which the numerator is the amount of the qualifying deposit of the Supplemental Eligible Account Holder and the denominator of which is the total amount of qualifying deposits of all Supplemental Eligible Account Holders in Pacific Trust Bank in each case on the close of business on March 31, 2001 (the "Supplemental Eligibility Record Date"), subject to the overall purchase limitations.

See "- Limitations on Stock Purchases."

If there are not sufficient shares available to satisfy all subscriptions of all Supplemental Eligible Account Holders, available shares first will be allocated among subscribing Supplemental Eligible Account Holders so as to permit each such Supplemental Eligible Account Holder, to the extent possible, to purchase a number of shares sufficient to make his total allocation (including the number of shares, if any, allocated in accordance with Category No.1) equal to the lesser of the number of shares subscribed for or 100 shares. Thereafter, any shares remaining available will be allocated among the Supplemental Eligible Account Holders whose subscriptions remain unfilled pro rata in the proportion that the amounts of their respective qualifying deposits bear to the total amount of qualifying deposits of all subscribing Supplemental Eligible Account Holders whose subscriptions remain unfilled.

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**Preference Category No. 4:** Other Members. To the extent that there are sufficient shares remaining after satisfaction of subscriptions by Eligible Account Holders, the Tax-Qualified Employee Plans and Supplemental Eligible Account Holders, each Other Member shall receive, without payment therefor, fourth priority, nontransferable subscription rights to subscribe for shares of First PacTrust Bancorp, Inc. common stock, up to the greater of \$500,000 or 50,000 shares of common stock or one-tenth of one percent of the total offering of shares of common stock in the offerings, subject to the overall purchase limitations. See "- Limitations on Stock Purchases."

In the event the Other Members subscribe for a number of shares which, when added to the shares subscribed for by Eligible Account Holders, the Tax-Qualified Employee Plans and Supplemental Eligible Account Holders, is in excess of the total number of shares of common stock offered in the conversion, available shares will be allocated among the subscribing Other Members pro rata in the same proportion that his number of votes on the close of business on \_\_\_\_\_, 2002, the date for determining voting members entitled to vote at the special meeting, which we call the Voting Record Date, bears to the total number of votes on the Voting Record Date of all subscribing Other Members on such date. Such number of votes shall be determined based on Pacific Trust Bank's mutual charter and bylaws in effect on the date of approval by members of the plan of conversion.

**Preference Category No. 5:** Directors, officers and employees. To the extent that there are sufficient shares remaining after satisfaction of all subscriptions by Eligible Account Holders, the Tax-Qualified Employee Plans, Supplemental Eligible Account Holders and Other Members, then directors, officers and employees of Pacific Trust Bank as of the date of the commencement of the subscription offering shall be entitled to receive, without payment, fifth priority, nontransferable subscription rights to purchase in this category an aggregate of up to 19% of the common stock being offered. The maximum amount of shares which may be purchased under this category by any person is \$500,000 of common stock. The ability of directors, officers and employees to purchase common stock under this category is in addition to rights which are otherwise available to them under the plan of conversion as they may fall within higher priority categories, and the plan of conversion generally allows such persons to purchase in the aggregate up to 29% of common stock sold in the offerings. See "- Limitations on Stock Purchases."

In the event of an oversubscription in this category, the shares available shall be allocated pro rata among all of the subscribing directors, officers and employees in this category.

**Expiration Date for the Subscription Offering.** The subscription offering will expire at 12:00 Noon, Chula Vista, California time, on \_\_\_\_\_, 2002 (the "Subscription Expiration Date"), unless extended for up to 45 days or for such additional periods by First PacTrust Bancorp, Inc. and Pacific Trust Bank as may be approved by the Office of Thrift Supervision. The subscription offering may not be extended beyond \_\_\_\_\_, 2004. Subscription rights which have not been exercised prior to the Subscription Expiration Date (unless extended) will become void.

First PacTrust Bancorp, Inc. and Pacific Trust Bank will not execute orders until at least the minimum number of shares of common stock, 2,635,000 shares, have been subscribed for or otherwise sold. If all shares have not been subscribed for or sold within 45 days after the Subscription Expiration Date, unless this period is extended with the consent of the Office of Thrift Supervision, all funds delivered to Pacific Trust Bank pursuant to the subscription offering will be returned promptly to the subscribers with interest and all withdrawal authorizations will be canceled. If an extension beyond the 45-day period following the Subscription Expiration Date is granted, First PacTrust Bancorp, Inc. and Pacific Trust Bank will notify subscribers of the extension of time and of any rights of subscribers to modify or rescind their subscriptions.

## **Direct Community Offering**

To the extent that shares remain available for purchase after satisfaction of all subscriptions of Eligible Account Holders, the Tax-Qualified Employee Plans, Supplemental Eligible Account Holders, Other Members and directors, officers and employees of Pacific Trust Bank, we anticipate we will offer shares pursuant to the plan of conversion to members of the general public who receive a prospectus, with a preference given to natural persons residing in San Diego and Riverside Counties, California. These natural persons are referred to as preferred subscribers. Persons, together with an associate or group of persons acting in concert with such persons, may not subscribe for or purchase more than \$500,000 of common stock in the direct community offering, if any. First PacTrust Bancorp, Inc. and Pacific Trust Bank may limit total subscriptions in the direct community offering so as to assure that the number of shares available for the public offering may be up to a specified percentage of the number of shares of common stock. Finally, First PacTrust Bancorp, Inc. and Pacific Trust Bank may reserve shares offered in the direct community offering for sales to institutional investors. The opportunity to subscribe for shares of common stock in any direct community offering will be subject to the right of First PacTrust Bancorp, Inc. and Pacific Trust Bank, in their sole discretion, to accept or reject any such orders in whole or in part from any person either at the time of receipt of an order or as soon as practicable following the Subscription Expiration Date. The direct community offering, if any, shall commence concurrently with, during or promptly after the subscription offering and shall not be for more than 45 days after the end of the subscription offering.

In the event of an oversubscription for shares in the direct community offering, shares may be allocated, to the extent shares remain available, first to each preferred subscriber whose order is accepted by First PacTrust Bancorp, Inc. Thereafter, shares may be allocated to cover the orders of any other person subscribing for shares in the direct community offering so that each such person

subscribing for shares may receive 1,000 shares, if available, and thereafter on a pro rata basis to such person based on the amount of their respective subscriptions.

## **Public Offering**

As a final step in the conversion, the plan of conversion provides that, if feasible, all shares of common stock not purchased in the subscription offering and direct community offerings may be offered for sale to selected members of the general public in a public offering through the underwriter. We call this the public offering. It is expected that the public offering will commence as soon as practicable after termination of the subscription offering and the direct community offering, if any. First PacTrust Bancorp, Inc. and Pacific Trust Bank, in their sole discretion, have the right to reject orders in whole or in part received in the public offering. Neither Keefe, Bruyette & Woods, Inc. nor any registered broker-dealer shall have any obligation to take or purchase any shares of common stock in the public offering; however, Keefe, Bruyette & Woods, Inc. has agreed to use its best efforts in the sale of shares in the public offering.

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The price at which common stock is sold in the public offering will be the same price at which shares are offered and sold in the subscription offering and direct community offering. No person, by himself or herself, or with an Associate or group of persons acting in concert, may purchase more than \$500,000 of common stock in the public offering, subject to the maximum purchase limitations. See "- Limitations on Stock Purchases."

Keefe, Bruyette & Woods, Inc. may enter into agreements with broker-dealers to assist in the sale of the shares in the public offering, although no such agreements exist as of the date of this prospectus. No orders may be placed or filled by or for a selected dealer during the subscription offering. After the close of the subscription offering, Keefe, Bruyette & Woods, Inc. will instruct selected dealers as to the number of shares to be allocated to each selected dealer. Only after the close of the subscription offering and upon allocation of shares to selected dealers may selected dealers take orders from their customers. During the subscription offering and direct community offering, selected dealers may only solicit indications of interest from their customers to place orders with First PacTrust Bancorp, Inc. as of a certain order date for the purchase of shares of First PacTrust Bancorp, Inc. common stock. When, and if, Keefe, Bruyette & Woods, Inc. and Pacific Trust Bank believe that enough indications of interest and orders have not been received in the subscription offering and direct community offering to consummate the conversion, Keefe, Bruyette & Woods, Inc. will request, as of the order date, selected dealers to submit orders to purchase shares for which they have previously received indications of interest from their customers. Selected dealers will send confirmations of the orders to such customers on the next business day after the order date. Selected dealers will debit the accounts of their customers on the settlement date, which date will be three business days from the order date. Customers who authorize selected dealers to debit their brokerage accounts are required to have the funds for payment in their account on but not before the settlement date. On the settlement date, selected dealers will deposit funds to the account established by Pacific Trust Bank for each selected dealer. Each customer's funds forwarded to Pacific Trust Bank, along with all other accounts held in the same title, will be insured by the FDIC up to \$100,000 in accordance with applicable FDIC regulations. After payment has been received by Pacific Trust Bank from selected dealers, funds will earn interest at Pacific Trust Bank's passbook rate until the completion or termination of the conversion. Funds will be promptly returned, with interest, in the event the conversion is not consummated as described above.

The public offering will be completed within 90 days after the termination of the subscription offering, unless extended by Pacific Trust Bank with the approval of the Office of Thrift Supervision. See "- How We Determined Our Price and the Number of Shares to be Issued in the Stock Offering" above for a discussion of rights of subscribers, if any, in the event an extension is granted.

## **Persons Who are Not Permitted to Participate in the Stock Offering**

Pacific Trust Bank will make reasonable efforts to comply with the securities laws of all states in the United States in which persons entitled to subscribe for stock pursuant to the plan of conversion reside. However, Pacific Trust Bank is not required to offer stock in the subscription offering to any person who resides in a foreign country or resides in a state of the United States with respect to which:

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- the number of persons otherwise eligible to subscribe for shares under the plan of conversion who reside in such jurisdiction is small;

- the granting of subscription rights or the offer or sale of shares of common stock to such persons would require any of First PacTrust Bancorp, Inc. and Pacific Trust Bank or their officers, directors or employees, under the laws of such jurisdiction, to register as a broker, dealer, salesman or selling agent or to register or otherwise qualify its securities for sale in such jurisdiction or to qualify as a foreign corporation or file a consent to service of process in such jurisdiction; or
- such registration, qualification or filing in the judgment of Pacific Trust Bank would be impracticable or unduly burdensome for reasons of cost or otherwise.

Where the number of persons eligible to subscribe for shares in one state is small, Pacific Trust Bank will base its decision as to whether or not to offer the common stock in that state on a number of factors, including but not limited to the size of accounts held by account holders in the state, the cost of registering or qualifying the shares or the need to register Pacific Trust Bank, its officers, directors or employees as brokers, dealers or salesmen.

### **Limitations on Stock Purchases**

The plan of conversion includes the following limitations on the number of shares of First PacTrust Bancorp, Inc. common stock which may be purchased in the conversion:

- (1) No fewer than 25 shares of common stock may be purchased, to the extent shares are available;
- (2) Each Eligible Account Holder may subscribe for and purchase in the subscription offering up to the greater of:
  - (a) \$500,000 or 50,000 shares of common stock;
  - (b) one-tenth of one percent of the total offering of shares of common stock; or
  - (c) 15 times the product (rounded down to the next whole number) obtained by multiplying the total number of shares of common stock to be issued by a fraction, of which the numerator is the amount of the qualifying deposit of the Eligible Account Holder and the denominator is the total amount of qualifying deposits of all Eligible Account Holders in Pacific Trust Bank in each case as of the close of business on the Eligibility Record Date, subject to the overall limitation in clause (7) below;
- (3) The Tax-Qualified Employee Plans, including an employee stock ownership plan, may purchase in the aggregate up to 10% of the shares of common stock issued in the conversion, and including any additional shares issued in the event of an increase in the estimated offering range; although at this time the employee stock ownership plan intends to purchase only 8.0% of such shares;

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- (4) Each Supplemental Eligible Account Holder may subscribe for and purchase in the subscription offering up to the greater of:
  - (a) \$500,000 or 50,000 shares of common stock;
  - (b) one-tenth of one percent of the total offering of shares of common stock; or
  - (c) 15 times the product (rounded down to the next whole number) obtained by multiplying the total number of shares of common stock to be issued by a fraction, of which the numerator is the amount of the qualifying deposit of the Supplemental Eligible Account Holder and the denominator is the total amount of qualifying deposits of all Supplemental Eligible Account Holders in Pacific Trust Bank in each case as of the close of business on the Supplemental Eligibility Record Date, subject to the overall limitation in clause (7) below;
- (5) Each Other Member may subscribe for and purchase in the subscription offering up to the greater of \$500,000 or 50,000 shares of common stock or one-tenth of one percent of the total offering of shares of common stock, subject to the overall limitation in clause (7) below;
- (6) Persons purchasing shares of common stock in the direct community offering or public offering may purchase in the direct community offering or public offering up to \$200,000 or 20,000 shares of common stock, subject to the overall limitation in clause (7) below;
- (7) Except for the Tax-Qualified Employee Plans, and the Eligible Account Holders and Supplemental Eligible Account Holders whose subscription rights are based upon the amount of their deposits, as a result of (2)(c) and (4)(c) above the maximum number of shares of First PacTrust Bancorp, Inc. common stock subscribed for or purchased in all categories of

the offerings by any person, together with associates of and groups of persons acting in concert with such persons, shall not exceed \$500,000 or 50,000 shares of common stock; and

- (8) No more than 19% of the total number of shares offered for sale in the subscription offering may be purchased by directors, officers and employees of Pacific Trust Bank in the fifth priority category in the subscription offering. No more than 29% of the total number of shares offered for sale in the conversion may be purchased by directors and officers of Pacific Trust Bank and their associates in the aggregate, excluding purchases by the Tax-Qualified Employee Plans.

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Subject to any required regulatory approval and the requirements of applicable laws and regulations, but without further approval of the members of Pacific Trust Bank, the boards of directors of First PacTrust Bancorp, Inc. and Pacific Trust Bank may, in their sole discretion, increase the individual amount permitted to be subscribed for to a maximum of 9.99% of the number of shares sold in the conversion, provided that orders for shares exceeding 5% of the shares being offered in the conversion shall not exceed, in the aggregate, 10% of the shares being offered in the conversion. Requests to purchase additional shares of common stock will be allocated by the boards of directors on a pro rata basis giving priority in accordance with the preference categories set forth in this prospectus.

The term "associate" when used to indicate a relationship with any person means:

- any corporation or organization (other than Pacific Trust Bank, First PacTrust Bancorp, Inc., or a majority-owned subsidiary of any of them) of which such person is a director, officer or partner or is directly or indirectly the beneficial owner of 10% or more of any class of equity securities;
- any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity;
- any relative or spouse of such person, or any relative of such spouse, who has the same home as such person or who is a director or officer of Pacific Trust Bank, First PacTrust Bancorp, Inc. or any subsidiary of Pacific Trust Bank or First PacTrust Bancorp, Inc. or any affiliate thereof; and
- any person acting in concert with any of the persons or entities specified above;

provided, however, that Tax-Qualified or Non-Tax Qualified Employee Plans shall not be deemed to be an associate of any director or officer of Pacific Trust Bank or First PacTrust Bancorp, Inc., to the extent provided in the plan of conversion. When used to refer to a person other than an officer or director of Pacific Trust Bank, the board of directors of Pacific Trust Bank or officers delegated by the board of directors in their sole discretion may determine the persons that are associates of other persons.

The term "acting in concert" is defined to mean knowing participation in a joint activity or interdependent conscious parallel action towards a common goal whether or not pursuant to an express agreement, or a combination or pooling of voting or other interests in the securities of an issuer for a common purpose pursuant to any contract, understanding, relationship, agreement or other arrangement, whether written or otherwise. A person or company which acts in concert with another person or company shall also be deemed to be acting in concert with any person or company who is also acting in concert with that other party, except that the Tax-Qualified Employee Plans will not be deemed to be acting in concert with their trustees or a person who serves in a similar capacity solely for the purpose of determining whether stock held by the trustee and stock held by each plan will be aggregated. The determination of whether a group is acting in concert shall be made solely by the board of directors of Pacific Trust Bank or officers delegated by such board of directors and may be based on any evidence upon which such board or delegatee chooses to rely.

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## Marketing Arrangements

First PacTrust Bancorp, Inc. and Pacific Trust Bank have retained Keefe, Bruyette & Woods, Inc. to consult with and to advise Pacific Trust Bank, and to assist First PacTrust Bancorp, Inc., on a best efforts basis, in the distribution of the shares of common stock in the subscription offering and direct community offering. The services that Keefe, Bruyette & Woods, Inc. will provide include, but are not limited to:

- training the employees of Pacific Trust Bank who will perform certain ministerial functions in the subscription offering and direct community offering regarding the mechanics and regulatory requirements of the stock offering process;
- managing the stock information center by assisting interested stock subscribers and by keeping records of all stock orders;
- preparing marketing materials; and
- assisting in the solicitation of proxies from Pacific Trust Bank's members for use at the special meeting.

For its services, Keefe, Bruyette & Woods, Inc. will receive a management fee of \$25,000 and a success fee of 1.5% of the aggregate purchase price, less any shares of common stock sold to directors, officers, and employees and the Tax-Qualified Employee Plans. The success fee paid to Keefe, Bruyette & Woods, Inc. will be reduced by the amount of the management fee. In the event that selected dealers are used to assist in the sale of shares of First PacTrust Bancorp, Inc. common stock in the direct community offering, these dealers will be paid a fee of up to 5.5% of the total purchase price of the shares sold by such dealers. Pacific Trust Bank has agreed to indemnify Keefe, Bruyette & Woods, Inc. against certain claims or liabilities, including certain liabilities under the Securities Act of 1933, as amended, and will contribute to payments Keefe, Bruyette & Woods, Inc. may be required to make in connection with any such claims or liabilities.

Sales of shares of First PacTrust Bancorp, Inc. common stock will be made by registered representatives affiliated with Keefe, Bruyette & Woods, Inc. or by the broker-dealers managed by Keefe, Bruyette & Woods, Inc. Keefe, Bruyette & Woods, Inc. has undertaken that the shares of First PacTrust Bancorp, Inc. common stock will be sold in a manner which will ensure that the distribution standards of the Nasdaq Stock Market will be met. A stock information center will be established at Pacific Trust Bank's branch office located at 279 F Street in Chula Vista, California. First PacTrust Bancorp, Inc. will rely on Rule 3a4-1 of the Securities Exchange Act of 1934 and sales of First PacTrust Bancorp, Inc. common stock will be conducted within the requirements of this rule, so as to permit officers, directors and employees to participate in the sale of First PacTrust Bancorp, Inc. common stock in those states where the law permits. No officer, director or employee of First PacTrust Bancorp, Inc. or Pacific Trust Bank will be compensated directly or indirectly by the payment of commissions or other remuneration in connection with his or her participation in the sale of common stock.

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## **Procedure for Purchasing Shares in the Subscription Offering**

To ensure that each purchaser receives a prospectus at least 48 hours before the Subscription Expiration Date, unless extended, in accordance with Rule 15c2-8 of the Securities Exchange Act of 1934, no prospectus will be mailed any later than five days prior to such date or hand delivered any later than two days prior to such date. Execution of the order form will confirm receipt or delivery in accordance with Rule 15c2-8. Order forms will only be distributed with a prospectus.

To purchase shares in the subscription offering, an executed order form with the required payment for each share subscribed for, or with appropriate authorization for withdrawal from a deposit account at Pacific Trust Bank, which may be given by completing the appropriate blanks in the order form, must be received by Pacific Trust Bank by 12:00 Noon, Chula Vista, California time, on the Subscription Expiration Date, unless extended. In addition, First PacTrust Bancorp, Inc. and Pacific Trust Bank will require a prospective purchaser to execute a certification in the form required by applicable Office of Thrift Supervision regulations in connection with any sale of common stock. Order forms which are not received by this time or are executed defectively or are received without full payment, or appropriate withdrawal instructions, are not required to be accepted. In addition, Pacific Trust Bank will not accept orders submitted on photocopied or facsimiled order forms nor order forms on which the certification form is not executed. Pacific Trust Bank has the right to waive or permit the correction of incomplete or improperly executed forms, but does not represent that it will do so. Once received, an executed order form may not be modified, amended or rescinded without the consent of Pacific Trust Bank, unless the conversion has not been completed within 45 days after the end of the subscription offering, or this period has been extended.

In order to ensure that Eligible Account Holders, Tax-Qualified Employee Plans, Supplemental Eligible Account Holders, Other Members and directors, officers and employees are properly identified as to their stock purchase priority, depositors as of the close of business on the Eligibility Record Date, December 31, 1999, or the Supplemental Eligibility Record Date, March 31, 2002, and depositors as of the close of business on the Voting Record Date, \_\_\_\_\_, 2002 must list all accounts on the stock order form giving all names in each account and the account numbers.

Payment for subscriptions may be made:

- by check or money order;
- by authorization of withdrawal from deposit accounts maintained with Pacific Trust Bank (including a certificate of deposit);  
or

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- in cash, if delivered in person at any full-service banking office of Pacific Trust Bank, although we request that you exchange cash for a check with any of our tellers.

No wire transfers will be accepted. Interest will be paid on payments made by cash, check or money order at our then-current passbook rate from the date payment is received until completion of the conversion. If payment is made by authorization of withdrawal from deposit accounts, the funds authorized to be withdrawn from a deposit account will continue to accrue interest at the contractual rate, but may not be used by the subscriber until all of First PacTrust Bancorp, Inc. common stock has been sold or the plan of conversion is terminated, whichever is earlier.

If a subscriber authorizes Pacific Trust Bank to withdraw the amount of the purchase price from his deposit account, Pacific Trust Bank will do so as of the effective date of the conversion. Pacific Trust Bank will waive any applicable penalties for early withdrawal from certificate accounts.

In the event of an unfilled amount of any subscription order, Pacific Trust Bank will make an appropriate refund or cancel an appropriate portion of the related withdrawal authorization, after completion of the conversion. If for any reason the conversion is not consummated, purchasers will have refunded to them all payments made, with interest, and all withdrawal authorizations will be canceled in the case of subscription payments authorized from accounts at Pacific Trust Bank.

If any Tax-Qualified Employee Plans or Non-Tax-Qualified Employee Plans subscribe for shares during the subscription offering, these plans will not be required to pay for the shares subscribed for at the time they subscribe, but rather, may pay for shares of common stock subscribed for at the purchase price upon completion of the subscription offering and direct community offering, if all shares are sold, or upon completion of the public offering if shares remain to be sold in such offering. In the event that, after the completion of the subscription offering, the amount of shares to be issued is increased above the maximum of the estimated valuation range included in this prospectus, the Tax-Qualified and Non-Tax-Qualified Employee Plans will be entitled to increase their subscriptions by a percentage equal to the percentage increase in the amount of shares to be issued above the maximum of the estimated valuation range, provided that such subscription will continue to be subject to applicable purchase limits and stock allocation procedures.

Owners of self-directed IRAs may use the assets of such IRAs to purchase shares of First PacTrust Bancorp, Inc. common stock in the subscription offering and direct community offering. ERISA provisions and IRS regulations require that officers, directors and 10% stockholders who use self-directed IRA funds to purchase shares of common stock in the offerings make such purchases for the exclusive benefit of the IRAs. IRAs maintained at Pacific Trust Bank are not self-directed IRAs and any interested parties wishing to use these IRA funds for stock purchases may do so, but are advised to contact the stock information center as soon as possible at (\_\_\_\_) \_\_\_\_-\_\_\_\_ for additional information.

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The records of Pacific Trust Bank will be deemed to control with respect to all matters related to the existence of subscription rights and/or one's ability to purchase shares of common stock in the subscription offering.

### **Restrictions on Transfer of Subscription Rights and Shares**

Pursuant to the rules and regulations of the Office of Thrift Supervision, no person with subscription rights may transfer or enter into any agreement or understanding to transfer the legal or beneficial ownership of the subscription rights issued under the plan of conversion or the shares of common stock to be issued upon their exercise. Such rights may be exercised only by the person to whom they are granted and only for such person's account. Each person exercising such subscription rights will be required to certify that the person is purchasing shares solely for the person's own account and that such person has no agreement or understanding regarding the sale or transfer of such shares. Federal regulations also prohibit any person from offering or making an announcement of an offer or intent to make an offer to purchase such subscription rights or shares of common stock prior to the completion of the conversion.

Pacific Trust Bank will refer to the Office of Thrift Supervision any situations that it believes may involve a transfer of subscription rights and will not honor orders believed by it to involve the transfer of such rights.

### **Delivery of Certificates**

Certificates representing common stock issued in the conversion will be mailed by First PacTrust Bancorp, Inc.'s transfer agent to the persons entitled thereto at the addresses of such persons appearing on the stock order form as soon as practicable following completion of the conversion. Any certificates returned as undeliverable will be held by First PacTrust Bancorp, Inc. until claimed.

by persons legally entitled to them or otherwise disposed of in accordance with applicable law. Until certificates for common stock are available and delivered to subscribers, they may not be able to sell the shares of common stock for which they have subscribed, even though trading of the common stock may have commenced.

**Required Approvals**

Various approvals of the Office of Thrift Supervision are required in order to consummate the conversion. The Office of Thrift Supervision has approved the plan of conversion, subject to approval by Pacific Trust Bank's members and other standard conditions. First PacTrust Bancorp, Inc.'s holding company application has been approved.

First PacTrust Bancorp, Inc. is required to make certain filings with state securities regulatory authorities in connection with the issuance of First PacTrust Bancorp, Inc. common stock in the offerings.

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**Judicial Review**

Any person hurt by a final action of the Office of Thrift Supervision which approves, with or without conditions, or disapproves a plan of conversion may obtain review of this action by filing in the court of appeals of the United States for the circuit in which the principal office or residence of the person is located, or in the United States Court of Appeals for the District of Columbia, a written petition asking that the final action of the Office of Thrift Supervision be modified, terminated or set aside. This petition must be filed within 30 days after the publication of notice of final action in the Federal Register, or 30 days after the mailing by the applicant of the notice to members as provided for in 12 C.F.R. § 563b.6(c), whichever is later. The further procedure for review is as follows: A copy of the petition is promptly transmitted to the Office of Thrift Supervision by the clerk of the court and then the Office of Thrift Supervision files in the court the record in the proceeding, as provided in Section 2112 of Title 28 of the United States Code. Upon the filing of the petition, the court has jurisdiction, which upon the filing of the record is exclusive, to affirm, modify, terminate, or set aside in whole or in part, the final action of the Office of Thrift Supervision. Review of these proceedings is as provided in Chapter 7 of Title 5 of the United States Code. The judgment and decree of the court is final, except that they are subject to review by the Supreme Court upon certiorari as provided in Section 1254 of Title 28 of the United States Code.

**Restrictions on Purchase or Transfer of Shares After the Conversion**

All shares of common stock purchased in connection with the conversion by a director or an executive officer of First PacTrust Bancorp, Inc. and Pacific Trust Bank will be subject to a restriction that the shares not be sold for a period of one year following the conversion except in the event of the death of the director or officer or pursuant to a merger or similar transaction approved by the Office of Thrift Supervision. Each certificate for restricted shares will bear a legend giving notice of this restriction on transfer, and instructions will be issued to the effect that any transfer within such time period of any certificate or record ownership of the shares other than as provided above is a violation of the restriction. Any shares of common stock issued at a later date within this one year period as a stock dividend, stock split or otherwise with respect to the restricted stock will be subject to the same restrictions.

Purchases of common stock of First PacTrust Bancorp, Inc. by directors, executive officers and their associates during the three-year period following completion of the conversion may be made only through a broker or dealer registered with the SEC, except with the prior written approval of the Office of Thrift Supervision. This restriction does not apply, however, to negotiated transactions involving more than 1% of First PacTrust Bancorp, Inc.'s outstanding common stock or to certain purchases of stock pursuant to an employee stock benefit plan.

Pursuant to Office of Thrift Supervision regulations, First PacTrust Bancorp, Inc. is permitted to repurchase shares of the common stock.

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**PROPOSED PURCHASES BY MANAGEMENT**

The following table sets forth, for each of Pacific Trust Bank's directors and executive officers and for all of the directors and executive officers as a group, the proposed purchases of common stock, assuming sufficient shares are available to satisfy their subscriptions. The amounts include shares that may be purchased through individual retirement accounts and by associates.

| At the Minimum of the<br>Estimated Offering Range | At the Maximum of<br>Estimated Offering Range |
|---------------------------------------------------|-----------------------------------------------|
|---------------------------------------------------|-----------------------------------------------|

| Name                                                         | Amount      | Number of<br>Shares | As a Percent<br>of Shares<br>Offered | Number of<br>Shares | As a Percent<br>of Shares<br>Offered |
|--------------------------------------------------------------|-------------|---------------------|--------------------------------------|---------------------|--------------------------------------|
| <b>Directors:</b>                                            |             |                     |                                      |                     |                                      |
| Alvin L. Majors                                              | \$500,000   | 50,000              | 1.90%                                | 50,000              | 1.40%                                |
| Hans R. Ganz                                                 | 500,000     | 50,000              | 1.90                                 | 50,000              | 1.40                                 |
| Francis P. Burke                                             | 500,000     | 50,000              | 1.90                                 | 50,000              | 1.40                                 |
| Kenneth W. Scholz                                            | 500,000     | 50,000              | 1.90                                 | 50,000              | 1.40                                 |
| Donald M. Purdy                                              | 500,000     | 50,000              | 1.90                                 | 50,000              | 1.40                                 |
| Donald A. Whitacre                                           | 500,000     | 50,000              | 1.90                                 | 50,000              | 1.40                                 |
| <b>Executive Officers:</b>                                   |             |                     |                                      |                     |                                      |
| James P. Sheehy                                              | 175,000     | 17,500              | 0.66                                 | 17,500              | 0.50                                 |
| Melanie M. Stewart                                           | 300,000     | 30,000              | 1.13                                 | 30,000              | 0.84                                 |
| Gayle N. Bland                                               | 43,500      | 4,350               | 0.17                                 | 4,350               | 0.12                                 |
| Rachel M. Carrillo                                           | 100,000     | 10,000              | 0.38                                 | 10,000              | 0.28                                 |
| Regan J. Gallagher                                           | 75,000      | 7,500               | 0.28                                 | 7,500               | 0.21                                 |
| Lisa R. Carpenter                                            | 69,000      | 6,900               | 0.26                                 | 6,900               | 0.20                                 |
| All directors and executive officers as a group (12 persons) | \$3,762,500 | 376,250             | 14.28%                               | 376,250             | 10.55%                               |

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## MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

### Forward Looking Statements

This prospectus contains certain "forward-looking statements" which may be identified by the use of words such as "believe," "expect," "anticipate," "should," "planned," "estimated," and "potential." Examples of forward-looking statements include, but are not limited to, estimates with respect to our financial condition, results of operations and business that are subject to various factors which could cause actual results to differ materially from these estimates and most other statements that are not historical in nature. These factors include, but are not limited to, general and local economic conditions, changes in interest rates, deposit flows, demand for mortgage, commercial and other loans, real estate values, competition, changes in accounting principles, policies, or guidelines, changes in legislation or regulation, and other economic, competitive, governmental, regulatory, and technological factors affecting our operations, pricing products and services.

### General

Our results of operations depend primarily on our net interest income. Net interest income is the difference between the interest income we earn on our interest-earning assets, consisting primarily of loans, investment securities and interest-bearing deposits with other financial institutions, and the interest we pay on our interest-bearing liabilities, consisting primarily of savings accounts, time deposits and borrowings. Our results of operations are also affected by our provisions for loan losses, other income and other expense. Other income consists primarily of service charges on deposit accounts and insurance commissions. Other expense consists primarily of noninterest expense, including salaries and employee benefits, occupancy, equipment, data processing, ATM costs, and, when applicable, deposit insurance premiums. Our results of operations may also be affected significantly by general and local economic and competitive conditions, changes in market interest rates, governmental policies and actions of regulatory authorities.

### Evolution of Business Strategy

Historically, we were a federal credit union, accepting deposits and making loans to members, the largest group of which were employees of the former Rohr, Inc., which was acquired by BF Goodrich in 1997. In January 2000, we converted to a federal mutual savings bank in order to better serve customers and the local community through the broader lending ability of a federal savings bank, and to expand our customer base beyond the limited field of membership permitted for credit unions. As a federal savings bank, we have expanded authority in structuring residential mortgage and consumer loans, and the ability to make commercial loans.

We have utilized this expanded lending authority to significantly increase our one- to four-family residential lending. Most of these loans are originated through mortgage brokers and bankers, underwritten and closed by us, and serviced by a third-party contractor. We believe utilizing the expertise and contacts of our brokerage relationships is currently the most effective method of originating loans in our market areas. We also believe this process is the most efficient use of our personnel. As we obtain more

experience and grow our loan portfolio, we intend to consider servicing the loans ourselves, if we believe that can be done profitably.

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In order to differentiate ourselves from our competitors, we stress customer service and offer flexible financing plans. As a result, we tend to make loans which, primarily due to the large loan amounts, are not readily saleable to Freddie Mac and Fannie Mae. These loans are, however, generally saleable to private investors, although we tend to be a portfolio lender. Over the last several years, we have also become a niche lender for quality borrowers of multi-family residences in low to middle class areas in our market.

Our current business strategy is to operate as a well-capitalized, profitable, community-oriented savings bank dedicated to providing quality customer service. We intend to continue to be primarily a one- to four-family lender. Management has, however, determined to broaden the scope of our loan products and services to enhance profitability, consistent with safety and soundness. In this regard, we have determined to expand our multi-family and commercial real estate lending and business banking services. Subject to capital requirements and our ability to continue to grow in a reasonable and prudent manner, we may open additional branches as opportunities arise. There can be no assurances that we will successfully implement our strategy.

### **Asset and Liability Management and Market Risk**

***Our Risk When Interest Rates Change.*** The rates of interest we earn on assets and pay on liabilities generally are established contractually for a period of time. Market interest rates change over time. Accordingly, our results of operations, like those of other financial institutions, are impacted by changes in interest rates and the interest rate sensitivity of our assets and liabilities. The risk associated with changes in interest rates and our ability to adapt to these changes is known as interest rate risk and is our most significant market risk.

***How We Measure Our Risk of Interest Rate Changes.*** As part of our attempt to manage our exposure to changes in interest rates and comply with applicable regulations, we monitor our interest rate risk. In monitoring interest rate risk we continually analyze and manage assets and liabilities based on their payment streams and interest rates, the timing of their maturities, and their sensitivity to actual or potential changes in market interest rates.

In order to manage the potential for adverse effects of material and prolonged increases in interest rates on our results of operations, we adopted asset and liability management policies to better align the maturities and repricing terms of our interest-earning assets and interest-bearing liabilities. These policies are implemented by the asset and liability management committee. The asset and liability management committee is chaired by the treasurer and is comprised of members of our senior management. The asset and liability management committee establishes guidelines for and monitors the volume and mix of assets and funding sources taking into account relative costs and spreads, interest rate sensitivity and liquidity needs. The objectives are to manage assets and funding sources to produce results that are consistent with liquidity, capital adequacy, growth, risk and profitability goals. The asset and liability management committee generally meets on at least a monthly basis to review, among other things, economic conditions and interest rate outlook, current and projected liquidity needs and capital position, anticipated changes in the volume and mix of assets and liabilities and interest rate risk exposure limits versus current projections pursuant to net present value of portfolio equity analysis. At each meeting, the asset and liability management committee recommends appropriate strategy changes based on this review. The treasurer or his designee is responsible for reviewing and reporting on the effects of the policy implementations and strategies to the board of directors on a monthly basis.

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In order to manage our assets and liabilities and achieve the desired liquidity, credit quality, interest rate risk, profitability and capital targets, we have focused our strategies on:

- originating and purchasing adjustable-rate mortgage loans,
- originating shorter-term consumer loans,
- managing our deposits to establish stable deposit relationships,
- using FHLB advances to align maturities and repricing terms, and
- attempting to limit the percentage of fixed-rate loans in our portfolio.

At times, depending on the level of general interest rates, the relationship between long- and short-term interest rates, market conditions and competitive factors, the asset and liability management committee may determine to increase Pacific Trust Bank's interest rate risk position somewhat in order to maintain its net interest margin.

As part of its procedures, the asset and liability management committee regularly reviews interest rate risk by forecasting the impact of alternative interest rate environments on net interest income and market value of portfolio equity, which is defined as the net present value of an institution's existing assets, liabilities and off-balance sheet instruments, and evaluating such impacts against the maximum potential changes in net interest income and market value of portfolio equity that are authorized by the board of directors of Pacific Trust Bank.

The Office of Thrift Supervision provides Pacific Trust Bank with the information presented in the following tables. They present the change in Pacific Trust Bank's net portfolio value at December 31, 2001 and 2000, that would occur upon an immediate change in interest rates based on Office of Thrift Supervision assumptions, but without effect to any steps that management might take to counteract that change.

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| December 31, 2001                                                                                |                     |                    |                    |                                             |                    |
|--------------------------------------------------------------------------------------------------|---------------------|--------------------|--------------------|---------------------------------------------|--------------------|
| Change in<br>Interest Rates in<br>Basis Points ("bp")<br>(Rate Shock<br>in Rates) <sup>(1)</sup> | Net Portfolio Value |                    |                    | Net Portfolio Value<br>as % of PV of Assets |                    |
|                                                                                                  | \$ Amount           | \$ Change          | % Change           | NPV Ratio                                   | Change             |
| +300 bp                                                                                          | 37,416              | (5,933)            | (14)%              | 11.80%                                      | -151 bp            |
| +200 bp                                                                                          | 40,072              | (3,277)            | (8)%               | 12.50%                                      | -81 bp             |
| +100 bp                                                                                          | 42,001              | (1,348)            | (3)%               | 12.99%                                      | -32 bp             |
| 0 bp                                                                                             | 43,349              | ---                | ---                | 13.31%                                      | 0 bp               |
| -100 bp                                                                                          | 43,792              | 443                | 1%                 | 13.38%                                      | +7 bp              |
| -200 bp                                                                                          | n/m <sup>(2)</sup>  | n/m <sup>(2)</sup> | n/m <sup>(2)</sup> | n/m <sup>(2)</sup>                          | n/m <sup>(2)</sup> |
| -300 bp                                                                                          | n/m <sup>(2)</sup>  | n/m <sup>(2)</sup> | n/m <sup>(2)</sup> | n/m <sup>(2)</sup>                          | n/m <sup>(2)</sup> |
| December 31, 2000                                                                                |                     |                    |                    |                                             |                    |
| Change in<br>Interest Rates in<br>Basis Points ("bp")<br>(Rate Shock<br>in Rates) <sup>(1)</sup> | Net Portfolio Value |                    |                    | Net Portfolio Value<br>as % of PV of Assets |                    |
|                                                                                                  | \$ Amount           | \$ Change          | % Change           | NPV Ratio                                   | Change             |
| +300 bp                                                                                          | 24,761              | (5,989)            | (19)%              | 8.35%                                       | -172 bp            |
| +200 bp                                                                                          | 27,074              | (3,676)            | (12)%              | 9.03%                                       | -104 bp            |
| +100 bp                                                                                          | 28,892              | (1,858)            | (6)%               | 9.55%                                       | -52 bp             |
| 0 bp                                                                                             | 30,750              | ---                | ---                | 10.07%                                      | 0 bp               |
| -100 bp                                                                                          | 31,176              | 426                | 1%                 | 10.16%                                      | +9 bp              |
| -200 bp                                                                                          | 32,384              | 1,634              | 5%                 | 10.48%                                      | +41 bp             |
| -300 bp                                                                                          | 34,790              | 4,040              | 13%                | 11.14%                                      | +107 bp            |

<sup>(1)</sup> Assumes an instantaneous uniform change in interest rates at all maturities.

<sup>(2)</sup> Not meaningful because some market rates would compute to a rate less than zero.

The Office of Thrift Supervision uses certain assumptions in assessing the interest rate risk of savings associations. These assumptions relate to interest rates, loan prepayment rates, deposit decay rates, and the market values of certain assets under differing interest rate scenarios, among others.

As with any method of measuring interest rate risk, certain shortcomings are inherent in the method of analysis presented in the foregoing table. For example, although certain assets and liabilities may have similar maturities or periods to repricing, they may react in different degrees to changes in market interest rates. Also, the interest rates on certain types of assets and liabilities may fluctuate in advance of changes in market interest rates, while interest rates on other types may lag behind changes in market rates. Additionally, certain assets, such as adjustable rate mortgage loans, have features which restrict changes in interest rates on a short-

term basis and over the life of the asset. Further, if interest rates change, expected rates of prepayments on loans and early withdrawals from certificates could deviate significantly from those assumed in calculating the table.

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### Comparison of Financial Condition at December 31, 2001 and December 31, 2000

**Assets.** Our total assets increased by \$9.8 million, or 3.3%, to \$310.1 million at December 31, 2001 from \$300.3 million at December 31, 2000. The increase reflected growth in loans receivable and cash and cash equivalents, funded by an increase in deposits and decreases in securities available-for-sale. Loans increased by \$22.9 million, or 9.8%, to \$257.2 million at December 31, 2001 from \$234.3 million at December 31, 2000. Our increase in loans resulted from a higher volume of one- to four-family mortgage loan originations reflecting increased demand as borrowers sought to take advantage of lower market interest rates. Cash and cash equivalents increased \$10.3 million, or 133.8%, to \$18.0 million at December 31, 2001 from \$7.7 million at December 31, 2000 due to repayments of loans and collateralized mortgage obligations as well as other securities maturing during the period. These funds were invested in short-term assets in order to provide partial funding to satisfy Pacific Trust Bank's commitment to purchase \$20.0 million of residential real estate loans in January 2002. Securities available-for-sale decreased by \$27.2 million, or 66.5%, to \$13.7 million at December 31, 2001 from \$40.9 million at December 31, 2000. Securities available-for-sale decreased during this period due to principal repayments on collateralized mortgage obligations as well as securities maturing during the period. Servicing agent receivable increased by \$3.8 million, or 47.5% to \$11.7 million. We receive monthly remittances for loans serviced by others. The increased volume of these loans and increased repayments due to the low interest rate environment resulted in a larger receivable at year end.

**Deposits.** Total deposits increased by \$33.3 million, or 15.2%, to \$252.0 million at December 31, 2001 from \$218.7 million at December 31, 2000. The increase reflected growth in savings, money market accounts and certificates of deposit. Certificates of deposit increased \$20.4 million, or 19.9%, to \$123.0 million. Money market accounts and savings accounts increased by \$7.8 million and \$3.7 million, or 15.4% and 9.5%, respectively. The additional funding was used to pay down Federal Home Loan Bank advances and support loan growth. The increase in deposit accounts is primarily attributable to increased marketing efforts and the Bank's recognition program in conjunction with its conversion to a community bank.

**Borrowings.** Federal Home Loan Bank advances decreased \$25.8 million, or 48.0%, to \$28.0 million at December 31, 2001 from \$53.8 million at December 31, 2000. An increase in deposits and repayments on collateralized mortgage obligations reduced the need for Federal Home Loan Bank borrowings. Higher cost advances were repaid resulting in prepayment penalties, which is more fully discussed with interest expense below.

**Equity.** Equity at December 31, 2001 was \$28.7 million compared to \$26.5 million at December 31, 2000, an increase of \$2.2 million, or 8.3% as a result of \$2.1 million net earnings for the year ended 2001 combined with an increase in unrealized gain on securities available-for-sale from a loss of \$116,000 at December 31, 2000 to a gain of \$52,000 at December 31, 2001.

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### Comparison of Financial Condition at December 31, 2000 and December 31, 1999

**Assets.** Our total assets increased by \$75.1 million, or 33.3%, to \$300.3 million at December 31, 2000 from \$225.2 million at December 31, 1999. The increase reflected growth in loans receivable and servicing agent receivable, funded by an increase in deposits and Federal Home Loan Bank advances and decreases in securities available-for-sale and cash and cash equivalents. Loans increased by \$88.2 million, or 60.4%, to \$234.3 million at December 31, 2000 from \$146.1 million at December 31, 1999. On January 1, 2000, we converted from a federal credit union to a federal mutual savings bank, and began utilizing third party brokers to originate loans, which allowed us to expand our lending efforts to the community at large. The servicing agent receivable increased by \$6.6 million to \$7.9 million as a result of increased volume of loans serviced by third parties and a sharp increase in prepayments at year end 2000. Cash and cash equivalents decreased \$5.5 million, or 41.5%, to \$7.7 million at December 31, 2000 from \$13.2 million at December 31, 1999. Securities available-for-sale decreased by \$15.0 million, or 26.9%, to \$40.9 million at December 31, 2000 from \$56.0 million at December 31, 1999. Securities decreased during this period primarily due to \$11.0 million in sales of securities available-for-sale and \$3.5 million in repayments on collateralized mortgage obligations. The decrease in securities and cash and cash equivalents was utilized to fund the significant volume of loan growth.

**Deposits and Borrowings.** Total deposits increased by \$17.8 million, or 8.9%, to \$218.2 million at December 31, 2000 from \$200.4 million at December 31, 1999. A majority of this growth was in money market accounts and certificates of deposit, which increased \$13.6 million and \$3.4 million, or 37.0% and 3.4%, during the year ended December 31, 2000, respectively. Pacific Trust

Bank borrowed \$53.8 million in Federal Home Loan Bank advances during 2000 compared to none during 1999, to provide additional funding for new loan originations during the year.

**Equity.** Equity at December 31, 2000 was \$26.4 million compared to \$24.0 million at December 31, 1999, an increase of \$2.4 million, or 10.0% as a result of \$1.7 million in net earnings for the year ended 2000 combined with a \$681,000 improvement in unrealized after-tax losses on securities available-for-sale.

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## Average Balances, Net Interest Income, Yields Earned and Rates Paid

The following table presents for the periods indicated the total dollar amount of interest income from average interest-earning assets and the resultant yields, as well as the interest expense on average interest-bearing liabilities, expressed both in dollars and rates. Also presented is the weighted average yield on interest-earning assets, rates paid on interest-bearing liabilities and the resultant spread at December 31, 2001. No tax equivalent adjustments were made. All average balances are monthly average balances. Non-accruing loans have been included in the table as loans carrying a zero yield.

|                                                                  | At<br>December 31,<br>2001 | 2001               |          |                           | 2000               |          |                           | 1999               |          |                           |
|------------------------------------------------------------------|----------------------------|--------------------|----------|---------------------------|--------------------|----------|---------------------------|--------------------|----------|---------------------------|
|                                                                  | Average<br>Yield/<br>Cost  | Average<br>Balance | Interest | Average<br>Yield/<br>Cost | Average<br>Balance | Interest | Average<br>Yield/<br>Cost | Average<br>Balance | Interest | Average<br>Yield/<br>Cost |
| (Dollars in Thousands)                                           |                            |                    |          |                           |                    |          |                           |                    |          |                           |
| <b>INTEREST-EARNING ASSETS</b>                                   |                            |                    |          |                           |                    |          |                           |                    |          |                           |
| Loans receivable <sup>(1)</sup>                                  | 7.27%                      | \$256,104          | \$19,987 | 7.80%                     | \$192,766          | \$15,316 | 7.95%                     | \$141,987          | \$11,513 | 8.11%                     |
| Securities <sup>(2)</sup>                                        | 5.81                       | 21,306             | 1,378    | 6.47                      | 47,814             | 2,992    | 6.26                      | 48,405             | 3,219    | 6.65                      |
| Other interest-earning assets <sup>(3)</sup>                     | 4.91                       | 8,871              | 457      | 5.15                      | 6,052              | 388      | 6.41                      | 27,639             | 1,223    | 4.42                      |
| Total interest-earning assets                                    | 7.14                       | 286,281            | 21,822   | 7.62                      | 246,632            | 18,696   | 7.58                      | 218,031            | 15,955   | 7.32                      |
| Non-interest earning assets                                      | ---                        | 22,466             |          |                           | 15,496             |          |                           | 13,106             |          |                           |
| Total assets                                                     | 7.14                       | \$308,747          |          |                           | \$262,128          |          |                           | \$231,137          |          |                           |
| <b>INTEREST-BEARING LIABILITIES</b>                              |                            |                    |          |                           |                    |          |                           |                    |          |                           |
| NOW                                                              | 0.75                       | \$ 24,526          | 255      | 1.04                      | \$ 23,679          | 345      | 1.46                      | \$ 23,547          | 301      | 1.28                      |
| Money market                                                     | 1.80                       | 54,072             | 1,781    | 3.29                      | 45,650             | 2,110    | 4.62                      | 37,205             | 1,329    | 3.57                      |
| Savings deposits                                                 | 1.75                       | 41,124             | 896      | 2.18                      | 40,611             | 1,083    | 2.67                      | 43,183             | 1,061    | 2.46                      |
| Certificates of deposit                                          | 4.23                       | 115,858            | 6,001    | 5.18                      | 99,998             | 5,589    | 5.59                      | 100,120            | 4,953    | 4.95                      |
| FHLB advances                                                    | 4.67                       | 36,992             | 2,640    | 7.14                      | 21,792             | 1,188    | 5.45                      | --                 | --       | --                        |
| Total interest-bearing liabilities                               | 3.06                       | 272,572            | 11,573   | 4.25                      | 231,730            | 10,315   | 4.45                      | 204,055            | 7,644    | 3.75                      |
| Non-interest- bearing liabilities                                | ---                        | 8,226              |          |                           | 4,357              |          |                           | 3,397              |          |                           |
| Total liabilities                                                | 3.06                       | 280,798            |          |                           | 236,087            |          |                           | 207,452            |          |                           |
| Equity                                                           |                            | 27,949             |          |                           | 26,041             |          |                           | 23,685             |          |                           |
| Total liabilities and equity                                     |                            | \$308,747          |          |                           | \$262,128          |          |                           | \$231,137          |          |                           |
| Net interest/spread                                              | 4.08                       |                    | \$10,249 | 3.37%                     |                    | \$ 8,381 | 3.13%                     |                    | \$ 8,311 | 3.57%                     |
| Margin                                                           |                            |                    |          | 3.58%                     |                    |          | 3.40%                     |                    |          | 3.81%                     |
| Ratio of interest-earning assets to interest-bearing liabilities |                            | 105.03%            |          |                           | 106.43%            |          |                           | 106.85%            |          |                           |

(1) Calculated net of deferred fees and loss reserves.

(2) Calculated based on amortized cost.

(3) Includes FHLB stock at cost and term deposits with other financial institutions.

(4) Net interest income dividend by interest-earning assets.

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## Rate/Volume Analysis

The following table presents the dollar amount of changes in interest income and interest expense for major components of interest-earning assets and interest-bearing liabilities. For each category of interest-earning assets and interest-bearing liabilities, information is provided on changes attributable to (1) changes in volume, which are changes in volume multiplied by the old rate, and (2) changes in rate, which are changes in rate multiplied by the old volume. Changes attributable to both rate and volume which cannot be segregated have been allocated proportionately to the change due to volume and the change due to rate.

|                                           | 2001 Compared to 2000 |                      |                    | 2000 Compared to 1999 |                      |                    |
|-------------------------------------------|-----------------------|----------------------|--------------------|-----------------------|----------------------|--------------------|
|                                           | Total Change          | Change Due To Volume | Change Due To Rate | Total Change          | Change Due To Volume | Change Due To Rate |
| (In Thousands)                            |                       |                      |                    |                       |                      |                    |
| <b>INTEREST-EARNING ASSETS</b>            |                       |                      |                    |                       |                      |                    |
| Loans receivable                          | \$4,671               | \$4,948              | \$ (277)           | \$3,803               | \$ 4,039             | \$ (236)           |
| Securities                                | (1,614)               | (1,711)              | 97                 | (227)                 | (39)                 | (188)              |
| Other interest-earning assets             | 69                    | 156                  | (87)               | (835)                 | (1,227)              | 392                |
| <b>Total interest-earning assets</b>      | <b>\$3,126</b>        | <b>\$3,393</b>       | <b>\$ (267)</b>    | <b>\$2,741</b>        | <b>\$ 2,773</b>      | <b>\$ (32)</b>     |
| <b>INTEREST-BEARING LIABILITIES</b>       |                       |                      |                    |                       |                      |                    |
| NOW                                       | \$ (90)               | \$ 12                | \$ (102)           | \$ 44                 | \$ 2                 | \$ 42              |
| Money market                              | (329)                 | 346                  | (675)              | 781                   | 340                  | 441                |
| Savings deposits                          | (187)                 | 14                   | (201)              | 22                    | (65)                 | 87                 |
| Certificates of deposit                   | 412                   | 842                  | (430)              | 636                   | (6)                  | 642                |
| FHLB advances                             | 1,452                 | 1,006                | 446                | 1,188                 | 1,188                | --                 |
| <b>Total interest-bearing liabilities</b> | <b>\$1,258</b>        | <b>\$2,220</b>       | <b>\$ (962)</b>    | <b>\$2,671</b>        | <b>\$ 1,459</b>      | <b>\$ 1,212</b>    |
| <b>Net interest/spread</b>                | <b>\$1,868</b>        | <b>\$1,173</b>       | <b>\$ 695</b>      | <b>\$ 70</b>          | <b>\$ 1,314</b>      | <b>\$(1,244)</b>   |

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## Comparison of Operating Results for the Years Ended December 31, 2001 and

### December 31, 2000

**General.** Net income increased \$353,000, or 20.3%, to \$2.1 million for the year ended December 31, 2001 from \$1.7 million for the year ended December 31, 2000. The increase in net income resulted from an increase in net interest income and a decrease in the provision for loan losses, partially offset by an increase in noninterest expense and an increase in income tax expense.

**Interest Income.** Total interest income increased by \$3.1 million, or 16.6%, to \$21.8 million for the year ended December 31, 2001 from \$18.7 million for the year ended December 31, 2000. The primary factor for the increase in interest income was the \$63.3 million increase in the average balance of loans receivable from \$192.8 million for the year ended December 31, 2000 to \$256.1 million for the year ended December 31, 2001. The increase was the result of loan originations exceeding repayments due to strong demand, reflecting generally lower interest rates in 2001. The average yield on loans receivable decreased to 7.80% from 7.95%, reflecting decreased market rates of interest.

Interest income on securities decreased \$1.6 million, or 53.9%, to \$1.4 million for the year ended December 31, 2001. The decrease resulted from a \$26.5 million, or 55.4%, decrease in the average balance of securities, attributable primarily to the increased rate of repayment on collateralized mortgage obligations and the sale and maturity of securities. The average yield on the securities portfolio was 6.47% for the year ended December 31, 2001 compared to 6.26% for 2000.

Interest income from interest-bearing deposits increased \$69,000, or 17.8%, to \$457,000 for the year ended December 31, 2001 from \$388,000 for the year ended December 31, 2000. The increase resulted from an increase in the average balance to \$8.9 million from \$6.1 million, which was due to the short-term investment of funds received from principal repayments on loans and collateralized mortgage obligations and the liquidation of securities. The average yield on interest-bearing deposits decreased to 5.15% from 6.41%, reflecting lower market rates of interest in 2001.

**Interest Expense.** Total interest expense increased \$1.3 million, or 12.6%, to \$11.6 million for the year ended December 31, 2001 from \$10.3 million for the year ended December 31, 2000. The increase in interest expense resulted primarily from increases in Federal Home Loan Bank advances, partially offset by a decrease in interest expense on deposit accounts. Interest expense on

Federal Home Loan Bank advances increased \$1.4 million, or 116.7%, to \$2.6 million for the year ended December 31, 2001 from \$1.2 million for the year ended December 31, 2000. The increase resulted from a \$15.2 million increase in the average balance of Federal Home Loan Bank advances, as well as a 169 basis point increase in the cost of Federal Home Loan Bank advances. Pacific Trust Bank repaid \$7.0 million of higher cost advances resulting in prepayment penalties of \$468,000 during 2001. This resulted in an immediate negative impact to the net interest margin, with the strategy to realign borrowing rates and terms to better match those of the assets being funded. Interest expense on deposits decreased \$194,000, or 2.1%, to \$8.9 million for the year ended December 31, 2001 from \$9.1 million for 2000. The decrease resulted from a 56 basis point decrease in the average cost of deposits to 3.79% from 4.35%, reflecting generally lower market rates of interest in 2001.

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**Net Interest Income.** Net interest income increased by \$1.8 million, or 21.4%, to \$10.2 million for the year ended December 31, 2001 from \$8.4 million for 2000. The net interest rate spread and the net interest margin increased during the period, reflecting lower levels of rates paid on deposits and a change in asset mix due to increased loan demand, which was partially funded with proceeds from the sale of lower yielding securities. The net interest spread increased 24 basis points to 3.37% from 3.13% while the net interest margin increased 18 basis points to 3.58% from 3.40%.

**Provision for Loan Losses.** We establish provisions for loan losses, which are charged to operations, at a level management believes is appropriate to absorb probable incurred credit losses in the loan portfolio. In evaluating the level of the allowance for loan losses, management considers the types of loans and the amount of loans in the loan portfolio, peer group information, historical loss experience, adverse situations that may affect the borrower's ability to repay, estimated value of any underlying collateral, and prevailing economic conditions. Large groups of smaller balance homogeneous loans, such as residential real estate, small commercial real estate, home equity and consumer loans, are evaluated in the aggregate using historical loss factors and peer group data adjusted for current economic conditions. More complex loans, such as multi-family and commercial real estate loans, are evaluated individually for impairment.

In 2000, we recorded a provision for loan losses of \$444,000 to reflect a 59.5% increase in gross loans, including a 117.6% increase in residential real estate loans. This growth was achieved primarily through the use of independent loan originators that were utilized for the first time in 2000. Prior to 2000, as a credit union, our ability to expand our loan customer base was significantly restricted. Since we did not have our own related loss history to apply to these loans, we utilized peer group data adjusted for local economic conditions to establish our \$1.7 million loan loss allowance, resulting in the \$444,000 provision.

The provision for 2001 declined to \$68,000 to reflect a far more modest loan balance growth rate of 9.5%, as well as net charge-offs of \$25,000, resulting in a loan loss allowance balance of \$1.7 million at December 31, 2001.

This evaluation is inherently subjective as it requires estimates that are susceptible to significant revision as more information becomes available or as future events change. We used the same methodology and generally similar assumptions in assessing the adequacy of the allowance for both periods. The allowance for loan losses as a percentage of loans outstanding decreased to .67% at December 31, 2001 from .72% at December 31, 2000, the result of increased loan growth in 2001. The level of the allowance is based on estimates and the ultimate losses may vary from the estimates.

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Management assesses the allowance for loan losses on a quarterly basis and makes provisions for loan losses as necessary in order to maintain the adequacy of the allowance. While management uses available information to recognize losses on loans, future loan loss provisions may be necessary based on changes in economic conditions. In addition, various regulatory agencies, as an integral part of their examination process, periodically review the allowance for loan losses and may require us to recognize additional provisions based on their judgment of information available to them at the time of their examination. The allowance for loan losses as of December 31, 2001 is maintained at a level that represents management's best estimate of inherent losses in the loan portfolio, and such losses were both probable and reasonably estimable.

**Noninterest Income.** Noninterest income decreased \$56,000, or 5.1%, to \$1.0 million for the year ended December 31, 2001 from \$1.1 million for 2000, primarily as a result of decreases in loan servicing fees of \$84,000 and customer service fees on deposit accounts of \$20,000 partially offset by a \$70,000 reduction in losses on sales of securities available-for-sale.

**Noninterest Expense.** Noninterest expense increased \$623,000, or 8.9%, to \$7.6 million for the year ended December 31, 2001 from \$7.0 million for the year ended December 31, 2000. This increase was primarily the result of a \$309,000 increase in salaries and employee benefits, a \$275,000 increase in data processing, and a \$90,000 increase in advertising, partially offset by a \$158,000 reduction in stationary, supplies and postage expense.

Salaries and employee benefits represented 44.3% and 43.8% of total noninterest expense for the years ended December 31, 2001 and 2000, respectively. Total salaries and employee benefits increased \$309,000, or 10.0%, to \$3.4 million for the year ended December 31, 2001 from \$3.1 million for the same period in 2000. The increase is primarily due to normal salary increases, bonuses, and vacation accrual.

Data processing expense increased as a result of increased volume in both loans and deposits and as a result of \$175,000 of costs incurred related to a data conversion, which has since been canceled.

Advertising increased \$90,000 primarily as a result of Pacific Trust Bank's implementation of a recognition program to inform the community of its new status as a community bank

The decrease in stationary, supplies and postage is a result of increased expenses during 2000 when the credit union converted to the thrift charter. This resulted in Pacific Trust Bank purchasing new stationary and supplies to reflect the charter change.

Other noninterest expense increased \$99,000, or 13.6%, to \$829,000 for the year ended December 31, 2001 from \$730,000 during 2000. Several small individual items resulted in this increase including website development, customer check charges, regulatory fees and miscellaneous loan charges offset slightly by decreased expenses related to debit cards, record retention and director expense.

**Income Tax Expense.** Income tax expense increased to \$1.5 million, or 41.9%, of income before income taxes for the year ended December 31, 2001 from \$300,000, or 14.7%, of income before income taxes for the year ended December 31, 2000. As a credit union, no income tax expense was recorded due to our not-for-profit status. Upon conversion to a thrift charter in January 2000, we recorded a tax benefit of \$456,000 as a result of a change in tax status and in accordance with Statement of Financial Accounting Standards No. 109, Accounting for Income Taxes. Absent the tax benefit, our income tax expense would have been \$756,000 in 2000, for an effective tax rate of 37.0%.

#### **Comparison of Operating Results for the Years Ended December 31, 2000 and December 31, 1999**

**General.** Net income decreased \$1.1 million, or 38.0%, to \$1.7 million for the year ended December 31, 2000 from \$2.8 million for the year ended December 31, 1999. The decrease in net income resulted from an increase in interest expense, an increase in the provision for loan losses and an increase in noninterest expense, including income tax expense, partially offset by an increase in interest income.

Net income for the year ended December 31, 2000 includes an income tax benefit of \$456,000. As a result of the change in our tax status on January 1, 2000, we recorded a deferred tax asset in the amount of \$456,000. Without this income tax benefit our net income for the year ended December 31, 2000 would have been \$1.3 million. The net income for the year ended December 31, 1999 reflects no income tax expense due to our not-for-profit status as a credit union at that time. Had income tax expense been recorded at the combined federal and state statutory rate of 41.15% for the year ended December 31, 1999, net income would have been \$1.7 million.

**Interest Income.** Total interest income increased by \$2.7 million, or 17.2%, to \$18.7 million for the year ended December 31, 2000 from \$16.0 million for the year ended December 31, 1999. The increase in interest income resulted primarily from increases in interest on loans, partially offset by a decrease in other interest-earning assets.

Interest income from loans increased \$3.8 million, or 33.0%, to \$15.3 million for the year ended December 31, 2000 from \$11.5 million for the year ended December 31, 1999. The increase resulted from a \$50.8 million, or 35.8%, increase in the average balance of loans outstanding to \$192.8 million from \$142.0 million, as loan originations exceeded repayments due to strong demand and management's intention to grow the loan portfolio and to expand outside of the credit union membership. The average yield on loans receivable decreased to 7.95% from 8.11%.

Interest income on securities decreased by \$228,000, or 7.1%, to \$3.0 million for the year ended December 31, 2000 from \$3.2 million for the year ended December 31, 1999. The average yield on securities decreased to 6.26% from 6.65%, reflecting principal repayments on higher yielding collateralized mortgage obligations in 1999.

Interest income from other interest-earning assets decreased \$835,000, or 68.2%, to \$388,000 for the year ended December 31, 2000 from \$1.2 million for the year ended December 31, 1999. The decrease resulted from a decrease in the average balance of other interest-earning assets to \$6.1 million from \$27.6 million, reflecting a reduced balance in a money market investment fund. The proceeds from these funds were used to fund loan demand during the year ended 2000. The average yield on other interest-earning assets increased to 6.41% from 4.42%, due to the higher yield Pacific Trust Bank received on its investment in Federal Home Loan Bank stock.

**Interest Expense.** Total interest expense increased \$2.7 million, or 34.9%, to \$10.3 million for the year ended December 31, 2000 from \$7.6 million for the year ended December 31, 1999. The increase in interest expense resulted primarily from increases in the cost of deposits and interest expense on advances from the Federal Home Loan Bank. Interest expense on deposits increased \$1.5 million, or 19.4%, to \$9.1 million for the year ended December 31, 2000 from \$7.6 million for 1999. The increase resulted from a 60 basis point increase in the cost of deposits to 4.35% from 3.75%, reflecting generally higher market rates of interest in 2000. The average balance on deposits increased to \$209.9 million in 2000 from \$204.1 million in 1999. Interest expense on Federal Home Loan Bank advances was \$1.2 million for the year ended December 31, 2000, with no advances outstanding during 1999. The average yield on Federal Home Loan Bank advances was 5.45%.

**Net Interest Income.** Net interest income remained relatively stable, increasing \$70,000, or 0.8%, to \$8.4 million for the year ended December 31, 2000 from \$8.3 million for 1999. The net interest spread decreased 44 basis points to 3.13% from 3.57% while the net interest margin decreased 41 basis points to 3.40% from 3.81%.

**Provision for Loan Losses.** In 2000, we recorded a provision for loan losses of \$444,000 to reflect a 59.5% increase in gross loans, including a 117.6% increase in residential real estate loans. This growth was achieved primarily through the use of independent loan originators that were utilized for the first time in 2000. Prior to 2000, as a credit union, our ability to expand our loan customer base was significantly restricted. Since we did not have our own related loss history to apply to these loans, we utilized peer group data adjusted for local economic conditions to establish our \$1.7 million loan loss allowance, resulting in the \$444,000 provision.

The provision for 1999 was \$92,000 reflecting our historical loss experience, as well as levels of nonperforming loans.

The allowance for loan losses to gross loans receivable decreased from .87% at December 31, 1999 to .72% at December 31, 2000. We used the same methodology and generally similar assumptions in assessing the adequacy of the allowance for consumer loans for both periods. For residential lending, we began to utilize peer group data to establish our allowance in 2000. The level of the allowance was based on estimates and the ultimate losses may vary from the estimates.

**Noninterest Income.** Noninterest income decreased \$63,000, or 5.5%, to \$1.1 million for the year ended December 31, 2000 from \$1.2 million for the same period in 1999, primarily as a result of \$125,000 of losses on sales of securities, partially offset by increases in customer service fees of \$34,000, loan servicing fees of \$19,000 and other income of \$8,000.

**Noninterest Expense.** Noninterest expense increased \$422,000, or 6.4%, to \$7.0 million for the year ended December 31, 2000 from \$6.6 million for the year ended December 31, 1999. This was primarily the result of a \$67,000 increase in ATM costs relating to expansion from a credit union to a mutual bank focus. Additionally, there were increases in advertising expense of \$127,000, stationery, supplies, and postage of \$96,000, and other general and administrative expense of \$87,000 related to the conversion to a thrift charter.

**Income Tax Expense.** For the year ended December 31, 1999, there was no income tax expense due to our not-for-profit status as a credit union at that time. For the year ended December 31, 2000, we recorded income taxes of \$300,000. This amount reflected a \$456,000 tax benefit as a result of the change in tax status. In addition, our earnings as a savings bank are subject to federal and state income taxes at a combined statutory rate of 41.15%. Had our earnings for the year ended December 31, 1999 been subject to income taxes, we would have recorded income tax expense of approximately \$1.2 million. Net income after income tax expense for this same period would have been \$1.6 million. Had our earnings for the year ended December 31, 2000 not reflected the \$456,000 tax benefit mentioned above, income tax expense for the period would have been \$756,000, resulting in after-tax net income of \$1.3 million.

## Liquidity and Commitments

We are required to have enough investments that qualify as liquid assets in order to maintain sufficient liquidity to ensure a safe and sound operation. Liquidity may increase or decrease depending upon the availability of funds and comparative yields on investments in relation to the return on loans. Historically, we have maintained liquid assets above levels believed to be adequate to meet the requirements of normal operations, including potential deposit outflows. Cash flow projections are regularly reviewed and updated to assure that adequate liquidity is maintained.

Pacific Trust Bank's liquidity, represented by cash and cash equivalents, is a product of its operating, investing and financing activities. Pacific Trust Bank's primary sources of funds are deposits, amortization, prepayments and maturities of outstanding loans and mortgage-backed securities, maturities of investment securities and other short-term investments and funds provided from operations. While scheduled payments from the amortization of loans and mortgage-backed securities and maturing investment securities and short-term investments are relatively predictable sources of funds, deposit flows and loan prepayments are greatly influenced by general interest rates, economic conditions and competition. In addition, Pacific Trust Bank invests excess funds in short-term interest-earning assets, which provide liquidity to meet lending requirements. Pacific Trust Bank also generates cash through borrowings. Pacific Trust Bank utilizes Federal Home Loan Bank advances to leverage its capital base and provide funds for its lending and investment activities, and to enhance its interest rate risk management.

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Liquidity management is both a daily and long-term function of business management. Excess liquidity is generally invested in short-term investments such as overnight deposits or U.S. Agency securities. On a longer term basis, Pacific Trust Bank maintains a strategy of investing in various lending products as described in greater detail under "Business of Pacific Trust Bank - Lending Activities." Pacific Trust Bank uses its sources of funds primarily to meet its ongoing commitments, to pay maturing certificates of deposit and savings withdrawals, to fund loan commitments and to maintain its portfolio of mortgage-backed securities and investment securities. At December 31, 2001, the total approved loan origination commitments outstanding amounted to \$2.8 million and the Bank had a commitment to purchase a \$20.0 million pool of adjustable rate one- to four-family loans from a third party. At the same date, unused lines of credit were \$19.3 million as of December 31, 2001 and outstanding letters of credit totaled \$34,000. Investment and mortgage-backed securities scheduled to mature in one year or less at December 31, 2001 totaled \$139,000. Certificates of deposit scheduled to mature in one year or less at December 31, 2001, totaled \$98.2 million. Based on historical experience, management believes that a significant portion of maturing deposits will remain with Pacific Trust Bank. Pacific Trust Bank anticipates that it will continue to have sufficient funds, through deposits and borrowings, to meet its current commitments.

## Capital

Consistent with its goals to operate a sound and profitable financial organization, Pacific Trust Bank actively seeks to maintain a "well capitalized" institution in accordance with regulatory standards. Total equity was \$28.7 million at December 31, 2001, or 9.27% of total assets on that date. As of December 31, 2001, Pacific Trust Bank exceeded all capital requirements of the Office of Thrift Supervision. Pacific Trust Bank's regulatory capital ratios at December 31, 2001 were as follows: core capital 9.2%; Tier I risk-based capital, 14.5%; and total risk-based capital, 15.4%. The regulatory capital requirements to be considered well capitalized are 5.0%, 6.0% and 10.0%, respectively.

## Impact of Inflation

The consolidated financial statements presented herein have been prepared in accordance with accounting principles generally accepted in the United States of America. These principles require the measurement of financial position and operating results in terms of historical dollars, without considering changes in the relative purchasing power of money over time due to inflation.

Our primary assets and liabilities are monetary in nature. As a result, interest rates have a more significant impact on our performance than the effects of general levels of inflation. Interest rates, however, do not necessarily move in the same direction or with the same magnitude as the price of goods and services, since such prices are affected by inflation. In a period of rapidly rising interest rates, the liquidity and maturities structures of our assets and liabilities are critical to the maintenance of acceptable performance levels.

The principal effect of inflation, as distinct from levels of interest rates, on earnings is in the area of noninterest expense. Such expense items as employee compensation, employee benefits and occupancy and equipment costs may be subject to increases as a result of inflation. An additional effect of inflation is the possible increase in the dollar value of the collateral securing loans that we have made. We are unable to determine the extent, if any, to which properties securing our loans have appreciated in dollar value due to inflation.

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## Recent Accounting Pronouncements

In June 2001, the Financial Accounting Standards Board (FASB) issued Statement No. 141 (FAS 141), Business Combinations and Statement No. 142 (FAS 142), Goodwill and Other Intangible Assets. FAS 141 addresses financial accounting and reporting for

business combinations and requires all business combinations within the scope of the Statement to be accounted for using the purchase method. However, for combinations between two or more mutual enterprises, FAS 141 is not effective until interpretative guidance related to the application of the purchase method to those transactions is issued. FAS 142 addresses financial accounting and reporting for acquired goodwill and other intangible assets. Management does not believe these recent accounting pronouncements will have any impact on its operations at this time.

## **BUSINESS OF FIRST PACTRUST BANCORP, INC.**

Pacific Trust Bank is converting to the stock form of organization and will become a wholly owned subsidiary of First PacTrust Bancorp, Inc. First PacTrust Bancorp, Inc. initially will not be an operating company and, after the conversion, is not expected to engage in any significant business activity other than to hold the common stock of Pacific Trust Bank and the employee stock ownership plan loan, and to invest the funds retained by it.

First PacTrust Bancorp, Inc. is not expected to own or lease real or personal property initially, but will instead use the facilities of Pacific Trust Bank. At the present time, First PacTrust Bancorp, Inc. does not intend to employ any persons other than certain officers of Pacific Trust Bank, but will utilize the support staff of Pacific Trust Bank from time to time.

## **BUSINESS OF PACIFIC TRUST BANK**

### **General**

Originally chartered in 1941 as "Rohr Employees Federal Credit Union," serving the employees and families of Rohr, Inc., we evolved through the years into a full-service, multi-branch public financial institution in San Diego County and Riverside County. We completed the conversion from a federal credit union charter to a federal mutual savings bank charter as of January 1, 2000. The objective of the charter conversion was to better serve customers and the local community through the broader lending ability of a savings bank, and to expand our customer base beyond the limited field of membership permitted for credit unions.

Our principal business consists of attracting retail deposits from the general public and investing those funds primarily in permanent loans secured by first mortgages on owner-occupied, one- to four-family residences and a variety of consumer loans. We also originate loans secured by multi-family and commercial real estate and, to a limited extent, commercial business loans secured primarily by residential real estate.

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Our revenues are derived principally from interest on loans and interest on securities.

We offer a variety of deposit accounts having a wide range of interest rates and terms, which generally include savings accounts, money market deposit and term certificate accounts and checking accounts. We solicit deposits in our market areas and, to a lesser extent from financial institutions nationwide, and we have not accepted brokered deposits.

### **Market Areas**

We intend to continue to be a community-oriented financial institution offering a variety of financial services to meet the needs of the communities we serve. We are headquartered in Chula Vista, California, a suburb of San Diego, California and have seven retail offices primarily serving San Diego and Riverside counties in California. Most of our mortgage loans are secured by real estate located in these market areas. See "- Lending Activities."

### **Lending Activities**

**General.** Our mortgage loans carry either a fixed or an adjustable rate of interest. Mortgage loans generally are long-term and amortize on a monthly basis with principal and interest due each month. We also have loans in our portfolio which require only interest payments on a monthly basis or may have the potential for negative amortization. At December 31, 2001, our net loan portfolio totaled \$257.2 million, which constituted 82.9% of our total assets.

Mortgage loans up to \$650,000 may be approved by senior loan officers. The Senior Vice President of Lending may approve loans up to \$1.0 million and the President may approve loans up to \$1.5 million. The Management Loan Committee may approve loans to one borrower or group of related borrowers up to \$3.5 million in the aggregate, with no single loan exceeding \$2.5 million. Loans over these amounts or outside our general underwriting guidelines, must be approved by the loan committee of the board of directors. Commercial and multi-family real estate loans must be approved by the Senior Vice President of Lending, the President, the Management Loan Committee or the board loan committee.

At December 31, 2001, the maximum amount which we could have loaned to any one borrower and the borrower's related entities was approximately \$4.5 million. Our largest lending relationship to a single borrower or a group of related borrowers consisted of one loan to a local entrepreneur totaling \$3.9 million at December 31, 2001. This loan is secured by a personal

residence and eight investment properties consisting of one- to four-family residences located in San Diego County, California. The loan was current as of December 31, 2001.

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The following table presents information concerning the composition of Pacific Trust Bank's loan portfolio in dollar amounts and in percentages as of the dates indicated.

|                                            | December 31, |         |           |         |            |         |           |         |           |         |
|--------------------------------------------|--------------|---------|-----------|---------|------------|---------|-----------|---------|-----------|---------|
|                                            | 2001         |         | 2000      |         | 1999       |         | 1998      |         | 1997      |         |
|                                            | Amount       | Percent | Amount    | Percent | Amount     | Percent | Amount    | Percent | Amount    | Percent |
| (Dollars in Thousands)                     |              |         |           |         |            |         |           |         |           |         |
| <u>Real Estate</u>                         |              |         |           |         |            |         |           |         |           |         |
| One- to four-family                        | \$185,391    | 71.61%  | \$147,472 | 62.40%  | \$ 67,779  | 45.75%  | \$ 66,683 | 46.97%  | \$ 69,708 | 46.53%  |
| Commercial and multi-family                | 47,353       | 18.29   | 56,895    | 24.08   | 45,713     | 30.85   | 38,527    | 27.14   | 31,974    | 21.35   |
| Construction                               | 2,521        | 0.97    | ---       | ---     | 178        | 0.12    | 763       | 0.54    | ---       | ---     |
| Total real estate loans                    | 235,265      | 90.87   | 204,367   | 86.48   | 113,670    | 76.72   | 105,973   | 74.65   | 101,682   | 67.88   |
| Other loans                                |              |         |           |         |            |         |           |         |           |         |
| Consumer:                                  |              |         |           |         |            |         |           |         |           |         |
| Automobile                                 | 6,394        | 2.47    | 10,228    | 4.33    | 13,491     | 9.11    | 16,323    | 11.50   | 20,497    | 13.68   |
| Home equity                                | 12,563       | 4.85    | 15,867    | 6.71    | 13,826     | 9.33    | 11,549    | 8.14    | 8,289     | 5.53    |
| Other                                      | 4,364        | 1.69    | 5,686     | 2.41    | 6,805      | 4.59    | 7,851     | 5.53    | 19,221    | 12.83   |
| Commercial                                 | 303          | 0.12    | 174       | 0.07    | 373        | 0.25    | 261       | 0.18    | 110       | 0.07    |
| Total other loans                          | 23,624       | 9.13    | 31,955    | 13.52   | 34,495     | 23.28   | 35,984    | 25.34   | 48,117    | 32.12   |
| Total loans                                | 258,889      | 100.00% | 236,322   | 100.00% | 148,165    | 100.00% | 141,957   | 100.00% | 149,799   | 100.00% |
| Less:                                      |              |         |           |         |            |         |           |         |           |         |
| Net deferred loan origination fees (costs) | (69)         |         | 322       |         | 789        |         | 786       |         | 763       |         |
| Allowance for loan losses                  | 1,742        |         | 1,699     |         | 1,296      |         | 1,237     |         | 2,060     |         |
| Total loans receivable, net                | \$257,216    |         | \$234,301 |         | \$ 146,080 |         | \$139,934 |         | \$146,976 |         |

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The following table shows the composition of Pacific Trust Bank's loan portfolio by fixed- and adjustable-rate at the dates indicated.

|                              | December 31, |         |           |         |           |         |           |         |           |         |
|------------------------------|--------------|---------|-----------|---------|-----------|---------|-----------|---------|-----------|---------|
|                              | 2001         |         | 2000      |         | 1999      |         | 1998      |         | 1997      |         |
|                              | Amount       | Percent | Amount    | Percent | Amount    | Percent | Amount    | Percent | Amount    | Percent |
| (Dollars in Thousands)       |              |         |           |         |           |         |           |         |           |         |
| <u>Real Estate</u>           |              |         |           |         |           |         |           |         |           |         |
| One- to four-family          | \$ 19,387    | 7.49%   | \$ 17,131 | 7.25%   | \$ 16,591 | 11.20%  | \$ 19,508 | 13.74%  | \$ 20,812 | 13.89%  |
| Commercial and multi- family | 4,288        | 1.66    | 5,079     | 2.15    | 4,015     | 2.71    | 7,155     | 5.04    | 7,127     | 4.76    |
| Construction                 | ---          | ---     | ---       | ---     | 178       | 0.12    | 763       | 0.54    | ---       | ---     |
| Total real estate loans      | 23,675       | 9.14    | 22,210    | 9.40    | 20,784    | 14.03   | 27,426    | 19.32   | \$ 27,939 | 18.65   |
| Other loans                  |              |         |           |         |           |         |           |         |           |         |
| Consumer:                    |              |         |           |         |           |         |           |         |           |         |
| Automobile                   | 5,540        | 2.14    | 9,165     | 3.88    | 11,920    | 8.05    | 14,843    | 10.46   | 19,195    | 12.82   |
| Home equity                  | ---          | ---     | 1,903     | 0.81    | 1,338     | 0.90    | 1,397     | 0.98    | 2,101     | 1.40    |
| Other                        | 3,253        | 1.26    | 2,301     | 0.97    | 1,566     | 1.06    | 1,773     | 1.25    | 11,400    | 7.61    |
| Commercial                   | 36           | 0.01    | 29        | 0.01    | 373       | 0.25    | 261       | 0.18    | 110       | 0.07    |
| Total other loans            | 8,829        | 3.41    | 13,398    | 5.67    | 15,197    | 10.26   | 18,274    | 12.87   | 32,806    | 21.90   |
| Total fixed-rate loans       | 32,504       | 12.55   | 35,608    | 15.07   | 35,981    | 24.28   | 45,700    | 32.19   | 60,745    | 40.55   |
| ADJUSTABLE-RATE              |              |         |           |         |           |         |           |         |           |         |
| Real Estate                  |              |         |           |         |           |         |           |         |           |         |
| One- to four-family          | 166,004      | 64.12   | 130,341   | 55.15   | 51,188    | 34.55   | 47,175    | 33.23   | 48,896    | 32.64%  |

|                                            |           |         |           |         |           |         |           |         |         |         |
|--------------------------------------------|-----------|---------|-----------|---------|-----------|---------|-----------|---------|---------|---------|
| Commercial and multi- family               | 43,065    | 16.63   | 51,816    | 21.93   | 41,698    | 28.14   | 31,372    | 22.10   | 24,847  | 16.59   |
|                                            | 2,521     | 0.97    | ---       | ---     | ---       | ---     | ---       | ---     | ---     | ---     |
| Total real estate loans                    | 211,590   | 81.73   | 182,157   | 77.08   | 92,886    | 62.69   | 78,547    | 55.33   | 73,743  | 49.23   |
| Other loans                                |           |         |           |         |           |         |           |         |         |         |
| Consumer:                                  |           |         |           |         |           |         |           |         |         |         |
| Automobile                                 | 854       | 0.33    | 1,063     | 0.45    | 1,571     | 1.05    | 1,480     | 1.04    | 1,302   | 0.87    |
| Home equity                                | 12,563    | 4.85    | 13,964    | 5.91    | 12,488    | 8.43    | 10,152    | 7.15    | 6,188   | 4.13    |
| Other                                      | 1,111     | 0.43    | 3,385     | 1.43    | 5,239     | 3.54    | 6,078     | 4.28    | 7,821   | 5.22    |
| Commercial                                 | 267       | 0.10    | 145       | 0.06    | ---       | ---     | ---       | ---     | ---     | ---     |
| Total other loans                          | 14,795    | 5.71    | 18,557    | 7.85    | 19,298    | 13.02   | 17,710    | 12.48   | 15,311  | 10.22   |
| Total adjustable-rate loans                | 226,385   | 87.44   | 200,714   | 84.93   | 112,184   | 75.71   | 96,257    | 67.81   | 89,054  | 59.45   |
| Total loans                                | 258,889   | 100.00% | 236,322   | 100.00% | 148,165   | 100.00% | 141,957   | 100.00% | 149,799 | 100.00% |
| Less:                                      |           |         |           |         |           |         |           |         |         |         |
| Net deferred loan origination fees (costs) | (69)      |         | 322       |         | 789       |         | 786       |         | 763     |         |
| Allowance for loan losses                  | 1,742     |         | 1,699     |         | 1,296     |         | 1,237     |         | 2,060   |         |
| Total loans receivable, net                | \$257,216 |         | \$234,301 |         | \$146,080 |         | \$139,934 |         | 146,976 |         |

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The following schedule illustrates the contractual maturity of Pacific Trust Bank's loan portfolio at December 31, 2001. Loans which have adjustable or renegotiable interest rates are shown as maturing in the period during which the contract is due. The schedule does not reflect the effects of possible prepayments or enforcement of due-on-sale clauses.

| Due During<br>Years Ending<br>December 31, | Real Estate            |                       |                             |                       |                                         |                       |          |                       |                     |                       |           |                       |
|--------------------------------------------|------------------------|-----------------------|-----------------------------|-----------------------|-----------------------------------------|-----------------------|----------|-----------------------|---------------------|-----------------------|-----------|-----------------------|
|                                            | One- to Four-Family    |                       | Multi-family and Commercial |                       | Residential Construction <sup>(1)</sup> |                       | Consumer |                       | Commercial Business |                       | Total     |                       |
|                                            | Amount                 | Weighted Average Rate | Amount                      | Weighted Average Rate | Amount                                  | Weighted Average Rate | Amount   | Weighted Average Rate | Amount              | Weighted Average Rate | Amount    | Weighted Average Rate |
|                                            |                        |                       |                             |                       |                                         |                       |          |                       |                     |                       |           |                       |
|                                            | (Dollars in Thousands) |                       |                             |                       |                                         |                       |          |                       |                     |                       |           |                       |
| 2002 <sup>(2)</sup>                        | \$10,653               | 6.29%                 | \$2,327                     | 8.23%                 | 2,521                                   | 8.50%                 | \$4,219  | 11.32%                | 267                 | 7.50%                 | \$19,987  | 7.85%                 |
| 2003                                       | 399                    | 7.78                  | 426                         | 7.82                  | ---                                     | ---                   | 1,589    | 7.73                  | 23                  | 8.49                  | 2,437     | 7.76                  |
| 2004 and 2005                              | 1,131                  | 8.29                  | 4,124                       | 7.66                  | ---                                     | ---                   | 7,103    | 7.47                  | 13                  | 9.25                  | 12,371    | 7.62                  |
| 2006 to 2010                               | 9,509                  | 7.23                  | 27,217                      | 8.07                  | ---                                     | ---                   | 10,256   | 6.58                  | ---                 | ---                   | 46,982    | 7.58                  |
| 2011 to 2025                               | 30,471                 | 7.06                  | 13,259                      | 8.10                  | ---                                     | ---                   | 154      | 5.43                  | ---                 | ---                   | 43,884    | 7.37                  |
| 2026 and following                         | 133,228                | 6.95                  | ---                         | ---                   | ---                                     | ---                   | ---      | ---                   | ---                 | ---                   | 133,228   | 6.95                  |
| Total                                      | \$185,391              | 6.95%                 | \$47,353                    | 8.05%                 | 2,521                                   | 8.05%                 | \$23,321 | 7.78%                 | 303                 | 7.65%                 | \$258,889 | 7.24%                 |

<sup>(1)</sup> Once the construction phase has been completed these loans will automatically convert to permanent financing.

<sup>(2)</sup> Includes demand loans, loans having no stated maturity and overdraft loans.

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The following schedule illustrates the interest rate sensitivity of Pacific Trust Bank's loan portfolio at December 31, 2001. Loans which have adjustable or renegotiable interest rates are shown as maturing in the period during which the loan reprices. The schedule does not reflect the effects of possible prepayments or enforcement of due-on-sale clauses.

| Due During<br>Years Ending<br>December 31, | One- to Four-<br>Family | Multi-family<br>and<br>Commercial | Residential<br>Construction <sup>(1)</sup> | Consumer | Commercial<br>Business | Total     |
|--------------------------------------------|-------------------------|-----------------------------------|--------------------------------------------|----------|------------------------|-----------|
|                                            |                         |                                   |                                            |          |                        |           |
|                                            | (Dollars in Thousands)  |                                   |                                            |          |                        |           |
| 2002 <sup>(2)</sup>                        | \$53,811                | \$25,734                          | 2,521                                      | \$17,520 | 290                    | \$99,876  |
| 2003 and 2004                              | 21,290                  | 12,764                            | ---                                        | 2,476    | ---                    | 36,530    |
| 2005 and 2006                              | 71,993                  | 7,087                             | ---                                        | 3,167    | 13                     | 82,260    |
| 2007 to 2011                               | 33,702                  | 1,768                             | ---                                        | 158      | ---                    | 35,628    |
| 2012 to 2016                               | 4,029                   | ---                               | ---                                        | ---      | ---                    | 4,029     |
| 2017 and over                              | 566                     | ---                               | ---                                        | ---      | ---                    | 566       |
| Total                                      | \$185,391               | \$47,353                          | 2,521                                      | \$23,321 | 303                    | \$258,889 |

<sup>(1)</sup> Once the construction phase has been completed these loans will automatically convert to permanent financing.

<sup>(2)</sup> Includes demand loans, loans having no stated maturity and overdraft loans.

The total amount of loans due after December 31, 2002 which have predetermined interest rates is \$28.0 million, while the total amount of loans due after such date which have floating or adjustable interest rates is \$131.0 million.

**One- to Four-Family Residential Real Estate Lending.** We focus our lending efforts primarily on the origination of loans secured by first mortgages on owner-occupied, one- to four-family residences in San Diego and Riverside counties, California. At December 31, 2001, one- to four-family residential mortgage loans totaled \$185.4 million, or 71.6% of our gross loan portfolio.

We generally underwrite our one- to four-family loans based on the applicant's employment and credit history and the appraised value of the subject property. Presently, we lend up to 90% of the lesser of the appraised value or purchase price for one- to four-family residential loans. For loans with a loan-to-value ratio in excess of 80%, we generally require private mortgage insurance in order to reduce our exposure below 80% or charge a higher interest rate. Properties securing our one- to four-family loans are appraised by independent fee appraisers approved by the management loan committee. We require our borrowers to obtain title and hazard insurance, and flood insurance, if necessary.

We currently originate one- to four-family mortgage loans on either a fixed- or adjustable-rate basis, as consumer demand dictates. Our pricing strategy for mortgage loans includes setting interest rates that are competitive with other local financial institutions, and consistent with our internal needs.

Adjustable-rate mortgage, or ARM loans, are offered with flexible initial and periodic repricing dates, ranging from one month to seven years through the life of the loan. We use a variety of indices to reprice our ARM loans. During the year ended December 31, 2001, we originated \$91.8 million of one- to four-family ARM loans and \$9.3 million of one- to four-family fixed-rate mortgage loans.

No loans were purchased during 2001.

Our one- to four-family loans may be assumable, subject to our approval, and may contain prepayment penalties. Most ARM loans are written using generally accepted underwriting guidelines. Due mainly, however, to the generally large loan size, these loans may not be readily saleable to Freddie Mac or Fannie Mae, but are saleable to other private investors. Our real estate loans generally contain a "due on sale" clause allowing us to declare the unpaid principal balance due and payable upon the sale of the security property.

We also offer ARM loans which may provide for negative amortization of the principal balance. These loans have monthly interest rate adjustments after the specified introductory rate term, and annual maximum payment adjustments of 7 1/2% during the first five years of the loan. The principal balance on these loans may increase up to 125% of the original loan amount as a result of the payments not being sufficient to cover the interest due during the first five years of the loan term. These loans adjust to fully amortize after five years through contractual maturity, with up to a 40 year term.

In order to remain competitive in our market areas, we may originate ARM loans at initial rates below the fully indexed rate. Our ARM loans generally provide for specified minimum and maximum interest rates, with a lifetime cap and floor, and a periodic adjustment on the interest rate over the rate in effect on the date of origination. As a consequence of using caps, the interest rates on these loans may not be as rate sensitive as is our cost of funds.

ARM loans generally pose different credit risks than fixed-rate loans, primarily because as interest rates rise, the borrower's payment rises, increasing the potential for default. We have not experienced significant delinquencies for these loans. However, the majority of these loans have been originated within the past two years. See "- Asset Quality - -- Non-performing Assets" and "-- Classified Assets." At December 31, 2001, our one- to four-family ARM loan portfolio totaled \$166.0 million, or 64.1% of our gross loan portfolio. At that date the fixed-rate one- to four-family mortgage loan portfolio totaled \$19.4 million, or 7.5% of our gross loan portfolio.

Fixed-rate loans secured by one- to four-family residences have contractual maturities of up to 30 years, and are generally fully amortizing, with payments due monthly. We generally sell our fixed rate loans with terms to maturity in excess of 15 years. We also offer a fixed-rate loan with interest only payments for 10 years, followed by a balloon payment.

**Commercial and Multi-Family Real Estate Lending.** We offer a variety of multi-family and commercial real estate loans. These loans are secured primarily by multi-family dwellings, and a limited amount of small retail establishments, hotels, motels, warehouses and small office buildings located in our market areas. At December 31, 2001, multi-family and commercial real estate loans totaled \$47.4 million or 18.3% of our gross loan portfolio.

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Our loans secured by multi-family and commercial real estate are originated with either a fixed or adjustable interest rate. The interest rate on adjustable-rate loans is based on a variety of indices, generally determined through negotiation with the borrower. Loan-to-value ratios on our multi-family and commercial real estate loans typically do not exceed 75% of the appraised value of the property securing the loan. These loans typically require monthly payments, may not be fully amortizing and have maximum maturities of 30 years.

Loans secured by multi-family and commercial real estate are underwritten based on the income producing potential of the property and the financial strength of the borrower. The net operating income, which is the income derived from the operation of the property less all operating expenses, must be sufficient to cover the payments related to the outstanding debt. We generally do not require personal guarantees of the borrowers. We generally require an assignment of rents or leases in order to be assured that the cash flow from the project will be used to repay the debt. Appraisals on properties securing multi-family and commercial real estate loans are performed by independent state licensed fee appraisers approved by the management loan committee. See "- Loan Originations, Purchases, Sales and Repayments."

We generally maintain a tax or insurance escrow account for loans secured by multi-family and commercial real estate. In order to monitor the adequacy of cash flows on income-producing properties, the borrower may be requested or required to provide periodic financial information.

Loans secured by multi-family and commercial real estate properties generally involve a greater degree of credit risk than one- to four-family residential mortgage loans. These loans typically involve large balances to single borrowers or groups of related borrowers. The largest multi-family or commercial real estate loan at December 31, 2001 was a children's camp located in San Diego County with a principal balance of \$2.5 million. At December 31, 2001, this loan was fully performing.

Because payments on loans secured by multi-family and commercial real estate properties are often dependent on the successful operation or management of the properties, repayment of these loans may be subject to adverse conditions in the real estate market or the economy. If the cash flow from the project is reduced, or if leases are not obtained or renewed, the borrower's ability to repay the loan may be impaired. See "- Asset Quality -- Non-performing Loans."

**Construction Lending.** We have not historically originated a significant amount of construction loans. From time to time we do, however, purchase participations in commercial real estate construction loans. In addition, we may, in the future originate or purchase loans or participations in residential construction. At December 31, 2001, we had \$2.5 million in construction loans outstanding, representing 1.0% of our gross loan portfolio.

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**Consumer and Other Lending.** Consumer loans generally have shorter terms to maturity, which reduces our exposure to changes in interest rates, and carry higher rates of interest than do one- to four-family residential mortgage loans. In addition, management believes that offering consumer loan products helps to expand and create stronger ties to our existing customer base by increasing the number of customer relationships and providing cross-marketing opportunities. At December 31, 2001, our consumer and other loan portfolio totaled \$23.6 million, or 9.1% of our gross loan portfolio. We offer a variety of secured consumer loans, including home equity lines of credit, new and used auto loans, boat and recreational vehicle loans, and loans secured by savings deposits. We also offer a limited amount of unsecured loans. We originate our consumer and other loans primarily in our market areas.

Our home equity lines of credit totaled \$12.6 million, and comprised 4.9% of our gross loan portfolio at December 31, 2001. These loans may be originated in amounts, together with the amount of the existing first mortgage, of up to 90% of the value of the property securing the loan. Home equity lines of credit have a seven year draw period and require the payment of 1.5% of the outstanding loan balance per month during the draw period, which amount may be reborrowed at any time during the draw period. Once the draw period has lapsed, the payment is fixed based on the loan balance at that time. At December 31, 2001, unfunded commitments on these lines of credit totaled \$12.2 million. Other consumer loan terms vary according to the type of collateral, length of contract and creditworthiness of the borrower.

We originate auto loans, boat and recreational vehicle loans on a direct basis.

Auto loans totaled \$6.4 million at December 31, 2001, or 2.5% of our gross loan portfolio. Auto loans may be written for up to six years and usually have fixed rates of interest. Loan-to-value ratios are up to 100% of the sales price for new autos and 100% of retail value on autos, based on valuation from official used car guides.

Loans for recreational vehicles, including boats and planes, totaled \$591,000 at December 31, 2001, or 0.20% of our gross loan portfolio. We will finance up to 100% of the purchase price for a new recreational vehicle and 100% of the value for a used recreational vehicle, based on the applicable official used recreational vehicle guides. The term to maturity for these types of loans is up to 10 years for used recreational vehicles and up to 15 years for new recreational vehicles. These loans are generally written with fixed rates of interest.

Consumer and other loans may entail greater risk than do one- to four-family residential mortgage loans, particularly in the case of consumer loans which are secured by rapidly depreciable assets, such as automobiles and recreational vehicles. In these cases, any repossessed collateral for a defaulted loan may not provide an adequate source of repayment of the outstanding loan balance. As a result, consumer loan collections are dependent on the borrower's continuing financial stability and, thus, are more likely to be adversely affected by job loss, divorce, illness or personal bankruptcy. See "Risk Factors - Our loan portfolio possesses increased risk due to our substantial number of consumer, multi-family and commercial real estate loans."

At December 31, 2001, commercial business loans totaled \$303,000 or 0.12% of our gross loan portfolio. Our commercial business lending policy includes credit file documentation and analysis of the borrower's background, capacity to repay the loan, the adequacy of the borrower's capital and collateral as well as an evaluation of other conditions affecting the borrower. Analysis of the borrower's past, present and future cash flows is also an important aspect of our credit analysis. We may obtain personal guarantees on our commercial business loans. Nonetheless, these loans are believed to carry higher credit risk than more traditional single family loans.

Unlike residential mortgage loans, commercial business loans are typically made on the basis of the borrower's ability to make repayment from the cash flow of the borrower's business. As a result, the availability of funds for the repayment of commercial business loans may be substantially dependent on the success of the business itself (which, in turn, is often dependent in part upon general economic conditions). Our commercial business loans are usually, but not always, secured by business assets. However, the collateral securing the loans may depreciate over time, may be difficult to appraise and may fluctuate in value based on the success of the business.

### **Loan Originations, Purchases, Sales and Repayments and Servicing**

We originate loans primarily through mortgage broker and banking relationships. By originating most of our loans through brokers, we are better able to control overhead costs and efficiently utilize management resources. We are a portfolio lender of products not readily saleable to Fannie Mae and Freddie Mac, although they are saleable to private investors.

We also originate consumer and real estate loans through our marketing efforts, and our existing and walk-in customers. While we originate both adjustable-rate and fixed-rate loans, our ability to originate loans is dependent upon customer demand for loans in our market areas. Demand is affected by competition and the interest rate environment. During the last few years, since we became a savings bank, we have significantly increased our origination of ARM loans. We sell most of the fixed-rate, one- to four-family residential loans we originate. We have also purchased ARM loans on one- to four-family residences and participations in commercial real estate loans. Loans and participations purchased must conform to our underwriting guidelines or guidelines

acceptable to the management loan committee. Furthermore, during the past few years, we, like many other financial institutions, have experienced significant prepayments on loans due to the low interest rate environment prevailing in the United States. In periods of economic uncertainty, the ability of financial institutions, including us, to originate or purchase large dollar volumes of real estate loans may be substantially reduced or restricted, with a resultant decrease in interest income.

We currently subcontract the servicing of our loans to an independent third party. In the future, we intend to bring this in-house, when economically feasible, in order to better control and improve service to customers.

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The following table shows the loan origination, purchase, sale and repayment activities of Pacific Trust Bank for the periods indicated.

|                                         | Year Ended December 31, |          |          |
|-----------------------------------------|-------------------------|----------|----------|
|                                         | 2001                    | 2000     | 1999     |
|                                         | (In thousands)          |          |          |
| <u>Originations by type:</u>            |                         |          |          |
| Adjustable rate:                        |                         |          |          |
| Real estate - one- to four-family       | \$91,788                | \$94,020 | \$12,766 |
| - multi-family and commercial           | 8,095                   | 24,059   | 12,760   |
| - construction or development           | ---                     | ---      | ---      |
| Non-real estate - consumer              | 9,287                   | 14,243   | 13,844   |
| - commercial business                   | 130                     | 325      | 1,029    |
| Total adjustable-rate                   | 109,300                 | 132,647  | 40,399   |
| Fixed rate:                             |                         |          |          |
| Real estate - one- to four-family       | 9,286                   | 6,530    | 8,950    |
| - multi-family and commercial           | 264                     | 782      | 1,683    |
| - construction or development           | ---                     | ---      | ---      |
| Non-real estate - consumer              | 2,506                   | 4,873    | 7,496    |
| - commercial business                   | ---                     | ---      | ---      |
| Total fixed-rate                        | 12,056                  | 12,185   | 18,129   |
| Total loans originated                  | 121,356                 | 144,832  | 58,528   |
| <u>Purchases:</u>                       |                         |          |          |
| Real estate - one- to four-family       | ---                     | ---      | ---      |
| - multi-family and commercial           | ---                     | ---      | ---      |
| - construction or development           | 2,521                   | ---      | ---      |
| Non-real estate - consumer              | ---                     | ---      | ---      |
| - commercial business                   | ---                     | ---      | ---      |
| Total loans purchased                   | 2,521                   | ---      | ---      |
| Sales and Repayments:                   |                         |          |          |
| Sales:                                  |                         |          |          |
| Real estate - one- to four-family       | (6,332)                 | (1,282)  | (7,702)  |
| Total loans sold                        | (6,332)                 | (1,282)  | (7,702)  |
| Principal repayments                    | (94,978)                | (55,393) | (44,618) |
| Total reductions                        | (101,310)               | (56,675) | (52,320) |
| Increase (decrease) in other items, net | (348)                   | 64       | (62)     |
| Net increase                            | \$22,915                | \$88,221 | \$6,146  |

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## Asset Quality

Real estate loans are serviced by our agent in accordance with secondary market guidelines. When a borrower fails to make a payment on a mortgage loan on or before the default date, a late charge notice is mailed 16 days after the due date. When the loan is 31 days past due, a delinquent notice is mailed to the borrower. All delinquent accounts are reviewed by a collector, who attempts to cure the delinquency by contacting the borrower once the loan is 30 days past due. If the loan becomes 60 days delinquent, the collector will generally contact by phone or send a personal letter to the borrower in order to identify the reason for the delinquency. Once the loan becomes 90 days delinquent, contact with the borrower is made requesting payment of the delinquent amount in full, or the establishment of an acceptable repayment plan to bring the loan current. Between 100 and 120 days delinquent a drive-by inspection is made. If the account becomes 120 days delinquent, and an acceptable repayment plan has not been agreed upon, a collection officer will generally refer the account to legal counsel, with instructions to prepare a notice of intent to foreclose. The notice of intent to foreclose allows the borrower up to 30 days to bring the account current. During this 30 day period, the collector may accept a written repayment plan from the borrower which would bring the account current within the next 90 days. Once the loan becomes 150 days delinquent, and an acceptable repayment plan has not been agreed upon, the collection officer will turn over the account to our legal counsel with instructions to initiate foreclosure.

For consumer loans a similar process is followed, with the initial written contact being made once the loan is 16 days past due. Follow-up contacts are generally on an accelerated basis compared to the mortgage loan procedure.

**Delinquent Loans.** The following table sets forth our loan delinquencies by type, number and amount at December 31, 2001.

|                                       | Loans Delinquent For:  |                                  |                    |                                  | Total              |                                  |
|---------------------------------------|------------------------|----------------------------------|--------------------|----------------------------------|--------------------|----------------------------------|
|                                       | 60-89 Days             |                                  | 90 Days or More    |                                  | Delinquent Loans   |                                  |
|                                       | Number<br>of Loans     | Principal<br>Balance<br>of Loans | Number<br>of Loans | Principal<br>Balance<br>of Loans | Number<br>of Loans | Principal<br>Balance<br>of Loans |
|                                       | (Dollars in thousands) |                                  |                    |                                  |                    |                                  |
| One- to four-family                   | 5                      | \$ 624                           | ---                | \$---                            | 5                  | \$624                            |
| Home equity                           | ---                    | ---                              | ---                | ---                              | ---                | ---                              |
| Construction                          | ---                    | ---                              | ---                | ---                              | ---                | ---                              |
| Commercial                            | ---                    | ---                              | ---                | ---                              | ---                | ---                              |
| Consumer                              | 29                     | 125                              | 7                  | 10                               | 36                 | 135                              |
|                                       | 34                     | \$749                            | 7                  | \$10                             | 41                 | \$759                            |
| Delinquent loans to total gross loans |                        | 0.29%                            |                    | ---                              |                    | 0.29%                            |

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**Non-performing Assets.** The table below sets forth the amounts and categories of non-performing assets in our loan portfolio. Loans are placed on non-accrual status when the loan becomes more than 90 days delinquent. At all dates presented, we had no troubled debt restructurings which involve forgiving a portion of interest or principal on any loans or making loans at a rate materially less than that of market rates. Foreclosed assets owned include assets acquired in settlement of loans.

|                          | December 31,           |       |        |        |        |
|--------------------------|------------------------|-------|--------|--------|--------|
|                          | 2001                   | 2000  | 1999   | 1998   | 1997   |
|                          | (Dollars in Thousands) |       |        |        |        |
| <i>Nonaccrual loans:</i> |                        |       |        |        |        |
| One- to four-family      | \$ ---                 | \$ 66 | \$ 148 | \$ 663 | \$ 263 |
| Multi-family             | ---                    | ---   | ---    | ---    | ---    |
| Construction             | ---                    | ---   | ---    | ---    | ---    |
| Commercial               | ---                    | ---   | ---    | ---    | ---    |

|                                               |       |       |        |        |        |
|-----------------------------------------------|-------|-------|--------|--------|--------|
| Consumer                                      | 10    | 10    | 48     | 266    | 278    |
|                                               | 10    | 76    | 196    | 929    | 541    |
| Total                                         |       |       |        |        |        |
| <i>Accruing delinquent more than 90 days:</i> |       |       |        |        |        |
| One- to four-family                           | ---   | ---   | ---    | ---    | ---    |
| Multi-family                                  | ---   | ---   | ---    | ---    | ---    |
| Construction                                  | ---   | ---   | ---    | ---    | ---    |
| Commercial                                    | ---   | ---   | ---    | ---    | ---    |
| Consumer                                      | ---   | ---   | ---    | ---    | ---    |
| Total                                         | ---   | ---   | ---    | ---    | ---    |
| <i>Non-performing loans</i>                   | 10    | 76    | 196    | 929    | 541    |
| <i>Foreclosed Assets</i>                      | ---   | ---   | ---    | ---    | ---    |
|                                               | \$ 10 | \$ 76 | \$ 196 | \$ 929 | \$ 541 |
| Total non-performing assets                   |       |       |        |        |        |
| Non-performing loans to total loans           | ---%  | 0.03% | 0.13%  | 0.65%  | 0.36%  |
| Non-performing assets to total assets         | ---%  | 0.03% | 0.09%  | 0.41%  | 0.25%  |

For the year ended December 31, 2001, there was no gross interest income which would have been recorded had the non-accruing loans been current in accordance with their original terms. No amount was included in interest income on these loans for these periods.

**Other Loans of Concern.** In addition to the non-performing assets set forth in the table above, as of December 31, 2001, there was also an aggregate of \$1.4 million of loans with respect to which known information about the possible credit problems of the borrowers have caused management to have doubts as to the ability of the borrowers to comply with present loan repayment terms and which may result in the future inclusion of such items in the non-performing asset categories. These loans have been considered in management's determination of the adequacy of our allowance for loan losses.

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The largest loan included in the \$1.4 million above had a loan balance of \$310,000 at December 31, 2001 and is secured by a multi-family property located in San Diego, California. The loan was periodically up to 30 days delinquent during 2001. Subsequent to December 31, 2001, this loan was paid in full.

**Classified Assets.** Federal regulations provide for the classification of loans and other assets, such as debt and equity securities considered by the Office of Thrift Supervision to be of lesser quality, as "substandard," "doubtful" or "loss." An asset is considered "substandard" if it is inadequately protected by the current net worth and paying capacity of the obligor or of the collateral pledged, if any. "Substandard" assets include those characterized by the "distinct possibility" that the insured institution will sustain "some loss" if the deficiencies are not corrected. Assets classified as "doubtful" have all of the weaknesses inherent in those classified "substandard," with the added characteristic that the weaknesses present make "collection or liquidation in full," on the basis of currently existing facts, conditions, and values, "highly questionable and improbable." Assets classified as "loss" are those considered "uncollectible" and of such little value that their continuance as assets without the establishment of a specific loss reserve is not warranted.

When an insured institution classifies problem assets as either substandard or doubtful, it may establish general allowances for loan losses in an amount deemed prudent by management and approved by the board of directors. General allowances represent loss allowances which have been established to recognize the inherent risk associated with lending activities, but which, unlike specific allowances, have not been allocated to particular problem assets. When an insured institution classifies problem assets as "loss," it is required either to establish a specific allowance for losses equal to 100% of that portion of the asset so classified or to charge off such amount. An institution's determination as to the classification of its assets and the amount of its valuation allowances is subject to review by the Office of Thrift Supervision and the FDIC, which may order the establishment of additional general or specific loss allowances.

In connection with the filing of our periodic reports with the Office of Thrift Supervision and in accordance with our classification of assets policy, we regularly review the problem assets in our portfolio to determine whether any assets require classification in accordance with applicable regulations. On the basis of management's review of our assets, at December 31, 2001, we had classified \$1.4 million of our assets as substandard, none as doubtful and none as loss. The total amount classified represented 4.5% of our equity capital and 0.4% of our assets at December 31, 2001.

**Provision for Loan Losses.** We recorded a provision for loan losses for the year ended December 31, 2001 of \$68,000, compared to \$444,000 for the year ended December 31, 2000. The provision for loan losses is charged to income to bring our allowance for loan losses to a level deemed appropriate by management based on the factors discussed below under "-- Allowance for Loan Losses." The provision for loan losses for the year ended December 31, 2001 was based on management's review of such factors which indicated that the allowance for loan losses was adequate to cover probable incurred losses in the loan portfolio as of the year ended December 31, 2001.

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**Allowance for Loan Losses.** We maintain an allowance for loan losses to absorb probable incurred losses in the loan portfolio. The allowance is based on ongoing, quarterly assessments of the estimated probable incurred losses in the loan portfolio. In evaluating the level of the allowance for loan losses, management considers the types of loans and the amount of loans in the loan portfolio, peer group information, historical loss experience, adverse situations that may affect the borrower's ability to repay, estimated value of any underlying collateral, and prevailing economic conditions. Large groups of smaller balance homogeneous loans, such as residential real estate, small commercial real estate, home equity and consumer loans, are evaluated in the aggregate using historical loss factors and peer group data adjusted for current economic conditions. More complex loans, such as multi-family commercial real estate loans, are evaluated individually for impairment.

At December 31, 2001, our allowance for loan losses was \$1.7 million or 0.7% of the total loan portfolio. Assessing the adequacy of the allowance for loan losses is inherently subjective as it requires making material estimates, including the amount and timing of future cash flows expected to be received on impaired loans, that may be susceptible to significant change. In the opinion of management, the allowance, when taken as a whole, is adequate to absorb reasonable estimated loan losses inherent in our loan portfolios.

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The following table sets forth an analysis of our allowance for loan losses.

|                                     | Year Ended December 31, |         |         |                      |                        |
|-------------------------------------|-------------------------|---------|---------|----------------------|------------------------|
|                                     | 2001                    | 2000    | 1999    | 1998                 | 1997                   |
|                                     | (Dollars in Thousands)  |         |         |                      |                        |
| Balance at beginning of period      | \$1,699                 | \$1,296 | \$1,237 | \$2,060              | \$2,084                |
| Charge-offs                         |                         |         |         |                      |                        |
| One- to four-family                 | (54)                    | ---     | ---     | ---                  | ---                    |
| Multi-family                        | ---                     | ---     | ---     | ---                  | ---                    |
| Construction                        | ---                     | ---     | ---     | ---                  | ---                    |
| Commercial                          | ---                     | ---     | ---     | ---                  | ---                    |
| Consumer                            | (128)                   | (182)   | (234)   | (855) <sup>(1)</sup> | (1,604) <sup>(1)</sup> |
|                                     | (182)                   | (182)   | (234)   | (855)                | (1,604)                |
| Recoveries                          |                         |         |         |                      |                        |
| One- to four-family                 | 61                      | 7       | ---     | ---                  | ---                    |
| Multi-family                        | ---                     | ---     | ---     | ---                  | ---                    |
| Construction                        | ---                     | ---     | ---     | ---                  | ---                    |
| Commercial                          | ---                     | ---     | ---     | ---                  | ---                    |
| Consumer                            | 96                      | 134     | 201     | 258                  | 345                    |
|                                     | 157                     | 141     | 201     | 258                  | 345                    |
| Net charge-offs                     | (25)                    | (41)    | (33)    | (597)                | (1,259)                |
| Provision (benefit) for loan losses | 68                      | 444     | 92      | (226)                | 1,235                  |

|                                                                   | \$1,742    | \$1,699   | \$1,296 | \$1,237 | \$2,060 |
|-------------------------------------------------------------------|------------|-----------|---------|---------|---------|
| Balance at end of period                                          |            |           |         |         |         |
| Net charge-offs to average loans during this period               | 0.13%      | 0.17%     | 0.31%   | 0.78%   | 1.31%   |
| Net charge-offs to average nonperforming loans during this period | 58.14%     | 30.15%    | 5.87%   | 81.22%  | 241.88% |
| Allowance for loan losses to nonperforming loans                  | 17,420.00% | 2,235.53% | 661.22% | 133.15% | 380.78% |
| Allowance as a % of total loans (end of period)                   | 0.67%      | 0.72%     | 0.87%   | 0.87%   | 1.38%   |

(1) \$198,000 in 1998 and \$722,000 in 1997 relates to the credit card portfolio which was sold in 1998.

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The distribution of our allowance for loan losses at the dates indicated is summarized as follows:

|                                    | 2001    |                                         |                                                           | 2000    |                                         |                                                           | 1999    |                                         |                                                           | 1998    |                                         |                                                           | 1997    |                                         |                                                           |
|------------------------------------|---------|-----------------------------------------|-----------------------------------------------------------|---------|-----------------------------------------|-----------------------------------------------------------|---------|-----------------------------------------|-----------------------------------------------------------|---------|-----------------------------------------|-----------------------------------------------------------|---------|-----------------------------------------|-----------------------------------------------------------|
|                                    | Amount  | Percent of Allowance to Total Allowance | Percent of Gross Loans in Each Category Total Gross Loans | Amount  | Percent of Allowance to Total Allowance | Percent of Gross Loans in Each Category Total Gross Loans | Amount  | Percent of Allowance to Total Allowance | Percent of Gross Loans in Each Category Total Gross Loans | Amount  | Percent of Allowance to Total Allowance | Percent of Gross Loans in Each Category Total Gross Loans | Amount  | Percent of Allowance to Total Allowance | Percent of Gross Loans in Each Category Total Gross Loans |
| (Dollars in Thousands)             |         |                                         |                                                           |         |                                         |                                                           |         |                                         |                                                           |         |                                         |                                                           |         |                                         |                                                           |
| Secured by residential real estate | \$ 964  | 55.34%                                  | 71.61%                                                    | \$ 767  | 45.15%                                  | 62.40%                                                    | \$ 220  | 16.98%                                  | 45.75%                                                    | \$ 187  | 15.12%                                  | 46.97%                                                    | \$ 200  | 9.71%                                   | 46.53%                                                    |
| Secured by commercial real estate  | 152     | 8.73                                    | 18.29                                                     | 182     | 10.71                                   | 24.08                                                     | 209     | 16.13                                   | 30.85                                                     | 163     | 13.18                                   | 27.14                                                     | 124     | 6.02                                    | 21.35                                                     |
| Construction                       | 8       | 0.46                                    | 0.97                                                      | ---     | ---                                     | ---                                                       | ---     | ---                                     | 0.12                                                      | ---     | ---                                     | 0.54                                                      | ---     | ---                                     | ---                                                       |
| Consumer                           | 469     | 26.92                                   | 9.01                                                      | 620     | 36.49                                   | 13.45                                                     | 729     | 56.25                                   | 23.03                                                     | 787     | 63.62                                   | 25.17                                                     | 1,576   | 76.50                                   | 32.05                                                     |
| Commercial                         | 1       | 0.5                                     | 0.12                                                      | ---     | ---                                     | 0.07                                                      | ---     | ---                                     | 0.25                                                      | ---     | ---                                     | 0.18                                                      | ---     | ---                                     | 0.07                                                      |
| Unallocated                        | 148     | 8.50                                    | ---                                                       | 130     | 7.65                                    | ---                                                       | 138     | 10.65                                   | ---                                                       | 100     | 8.08                                    | ---                                                       | 160     | 7.77                                    | ---                                                       |
| Total Allowance for Loan Losses    | \$1,742 | 100.00%                                 | 100.00%                                                   | \$1,699 | 100.00%                                 | 100.00%                                                   | \$1,296 | 100.00%                                 | 100.00%                                                   | \$1,237 | 100.00%                                 | 100.00%                                                   | \$2,060 | 100.00%                                 | 100.00%                                                   |

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## Investment Activities

Federally chartered savings institutions have the authority to invest in various types of liquid assets, including United States Treasury obligations, securities of various federal agencies, including callable agency securities, certain certificates of deposit of insured banks and savings institutions, certain bankers' acceptances, repurchase agreements and federal funds. Subject to various restrictions, federally chartered savings institutions may also invest their assets in investment grade commercial paper and corporate debt securities and mutual funds whose assets conform to the investments that a federally chartered savings institution is otherwise authorized to make directly. See "How We Are Regulated - Pacific Trust Bank" and "- Qualified Thrift Lender Test" for a discussion of additional restrictions on our investment activities.

The treasurer has the basic responsibility for the management of our investment portfolio, subject to the direction and guidance of the investment committee. The Treasurer considers various factors when making decisions, including the marketability, maturity and tax consequences of the proposed investment. The maturity structure of investments will be affected by various market conditions, including the current and anticipated slope of the yield curve, the level of interest rates, the trend of new deposit inflows, and the anticipated demand for funds via deposit withdrawals and loan originations and purchases.

The general objectives of our investment portfolio are to provide liquidity when loan demand is high, to assist in maintaining earnings when loan demand is low and to maximize earnings while satisfactorily managing risk, including credit risk, reinvestment risk, liquidity risk and interest rate risk. See "Management's Discussion and Analysis of Financial Condition and Results of Operations - Asset and Liability Management and Market Risk."

Our investment securities currently consist solely of collateralized mortgage obligations, also referred to as CMOs. CMOs are securities derived by reallocating the cash flows from mortgage-backed securities or pools of mortgage loans in order to create

multiple classes, or tranches, of securities with coupon rates and average lives that differ from the underlying collateral as a whole. The term to maturity of any particular tranche is dependent upon the prepayment speed of the underlying collateral as well as the structure of the particular CMO. As a result of these factors, the estimated average lives of the CMOs may be shorter than the contractual maturities as shown on the table below. Although a significant proportion of our CMOs are interests in tranches which have been structured (through the use of cash flow priority and "support" tranches) to give somewhat more predictable cash flows, the cash flow and hence the value of CMOs are subject to change.

We invest in CMOs as an alternative to mortgage loans and conventional mortgage-backed securities as part of our asset/liability management strategy. Management believes that CMOs represent attractive investment alternatives relative to other investments due to the wide variety of maturity and repayment options available through such investments. In particular, we have from time to time concluded that short and intermediate duration CMOs (with an expected average life of five years or less) represent a better combination of rate and duration than adjustable rate mortgage-backed securities. All of our CMOs are available for sale. At December 31, 2001, we held \$13.7 million of CMOs, substantially all of which were of expected short and intermediate duration. See Note 2 of the Notes to Consolidated Financial Statements.

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The following table sets forth the composition of our securities portfolio and other investments at the dates indicated. Our securities portfolio at December 31, 2001, did not contain securities of any issuer with an aggregate book value in excess of 10% of our equity capital, excluding those issued by the United States Government or its agencies.

|                                      | December 31,   |                  |                |                  |                |                  |
|--------------------------------------|----------------|------------------|----------------|------------------|----------------|------------------|
|                                      | 2001           |                  | 2000           |                  | 1999           |                  |
|                                      | Carrying Value | % of Total Total | Carrying Value | % of Total Total | Carrying Value | % of Total Total |
| (Dollars in Thousands)               |                |                  |                |                  |                |                  |
| Securities Available for Sale:       |                |                  |                |                  |                |                  |
| U.S. government and federal agencies | \$ ---         | ---%             | \$ 7,983       | 19.49%           | \$15,280       | 27.29%           |
| Collateralized mortgage obligations  | 13,661         | 100.00           | 20,935         | 51.13            | 29,573         | 52.81            |
| Marketable equity securities         | ---            | ---              | 12,030         | 29.38            | 11,143         | 19.90            |
| Total                                | \$13,661       | 100.00%          | \$40,948       | 100.00%          | \$55,996       | 100.00%          |
| Average remaining life of securities | 2.0 years      |                  | 1.7 years      |                  | 2.4 years      |                  |
| Other earning assets:                |                |                  |                |                  |                |                  |
| Interest-earning deposits with banks | \$ 2,606       | 17.07%           | \$ 851         | 19.42%           | \$ 1,491       | 13.22%           |
| Federal funds sold                   | 10,150         | 66.49            | ---            | ---              | ---            | ---              |
| FHLB stock                           | 2,509          | 16.44            | 2,705          | 61.74            | 1,221          | 10.83            |
| Other investments                    | ---            | ---              | 825            | 18.83            | 8,566          | 75.95            |
|                                      | \$15,265       | 100.00%          | \$4,381        | 100.00%          | \$11,278       | 100.00%          |

The composition and maturities of the securities portfolio, excluding Federal Home Loan Bank stock as of December 31, 2001 are indicated in the following table.

|                                     | December 31, 2001 |                   |                  |                |                  |            |
|-------------------------------------|-------------------|-------------------|------------------|----------------|------------------|------------|
|                                     | One Year or Less  | One to Five Years | Five to 10 Years | Over 10 Years  | Total Securities |            |
|                                     | Amortized Cost    | Amortized Cost    | Amortized Cost   | Amortized Cost | Amortized Cost   | Fair Value |
| (Dollars in Thousands)              |                   |                   |                  |                |                  |            |
| Collateralized mortgage obligations | \$139             | \$3,638           | \$1,540          | \$8,256        | \$13,573         | \$13,661   |

|                             |       |         |         |         |          |          |
|-----------------------------|-------|---------|---------|---------|----------|----------|
| Total investment securities | \$139 | \$3,638 | \$1,540 | \$8,256 | \$13,573 | \$13,661 |
| Weighted average yield      | 5.26% | 5.28%   | 4.39%   | 5.19%   |          |          |

## Sources of Funds

**General.** Our sources of funds are deposits, borrowings, payment of principal and interest on loans, interest earned on or maturation of other investment securities and funds provided from operations.

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**Deposits.** We offer a variety of deposit accounts to both consumers and businesses having a wide range of interest rates and terms. Our deposits consist of savings accounts, money market deposit accounts, NOW and demand accounts and certificates of deposit. We solicit deposits primarily in our market areas and from financial institutions and have not accepted brokered deposits. We primarily rely on competitive pricing policies, marketing and customer service to attract and retain these deposits.

The flow of deposits is influenced significantly by general economic conditions, changes in money market and prevailing interest rates and competition. The variety of deposit accounts we offer has allowed us to be competitive in obtaining funds and to respond with flexibility to changes in consumer demand. We have become more susceptible to short-term fluctuations in deposit flows, as customers have become more interest rate conscious. We try to manage the pricing of our deposits in keeping with our asset/liability management, liquidity and profitability objectives, subject to competitive factors. Based on our experience, we believe that our deposits are relatively stable sources of funds. Despite this stability, our ability to attract and maintain these deposits and the rates paid on them has been and will continue to be significantly affected by market conditions.

The following table sets forth our deposit flows during the periods indicated.

|                             | Year Ended December 31, |           |           |
|-----------------------------|-------------------------|-----------|-----------|
|                             | 2001                    | 2000      | 1999      |
|                             | (Dollars in thousands)  |           |           |
| Opening balance             | \$218,695               | \$200,940 | \$206,007 |
| Deposits/withdrawals        | 24,326                  | 8,865     | (12,708)  |
| Interest credited           | 8,933                   | 8,890     | 7,641     |
| Ending balance              | \$251,954               | \$218,695 | \$200,940 |
| Net increase (decrease)     | \$33,259                | \$17,755  | \$(5,067) |
| Percent increase (decrease) | 15.21%                  | 8.84%     | (2.46)%   |

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The following table sets forth the dollar amount of savings deposits in the various types of deposit programs we offered at the dates indicated.

|                            | December 31,           |                  |          |                  |          |                  |
|----------------------------|------------------------|------------------|----------|------------------|----------|------------------|
|                            | 2001                   |                  | 2000     |                  | 1999     |                  |
|                            | Amount                 | Percent of Total | Amount   | Percent of Total | Amount   | Percent of Total |
|                            | (Dollars in thousands) |                  |          |                  |          |                  |
| Noninterest-bearing demand | \$ 4,001               | 1.59%            | \$ 4,024 | 1.84%            | \$ 3,397 | 1.69%            |
| Savings                    | 42,507                 | 16.87            | 38,820   | 17.75            | 39,493   | 19.65            |
| NOW                        | 24,266                 | 9.63             | 22,866   | 10.46            | 22,062   | 10.98            |
| Money market               | 58,181                 | 23.09            | 50,390   | 23.04            | 36,807   | 18.32            |
| Certificates of deposit    |                        |                  |          |                  |          |                  |
| 2.00% - 2.99%              | 24,733                 | 9.82             | ---      | ---              | ---      | ---              |

|                               |           |         |           |         |           |         |
|-------------------------------|-----------|---------|-----------|---------|-----------|---------|
| 3.00% - 3.99%                 | 24,358    | 9.67    | ---       | ---     | ---       | ---     |
| 4.00% - 4.99%                 | 35,657    | 14.15   | 4,188     | 1.91    | 44,828    | 22.31   |
| 5.00% - 5.99%                 | 24,671    | 9.79    | 33,121    | 15.14   | 50,686    | 25.22   |
| 6.00% - 6.99%                 | 13,328    | 5.29    | 65,051    | 29.75   | 2,819     | 1.40    |
| 7.00% - 7.99%                 | 252       | 0.10    | 235       | 0.11    | 848       | 0.42    |
| Total Certificates of Deposit | 122,999   | 48.82   | 102,595   | 46.91   | 99,181    | 49.36   |
|                               | \$251,954 | 100.00% | \$218,695 | 100.00% | \$200,940 | 100.00% |

The following table indicates the amount of Pacific Trust Bank's certificates of deposit and other deposits by time remaining until maturity as of December 31, 2001.

|                        | 2002     | 2003     | 2004    | 2005    | 2006    | Total     |
|------------------------|----------|----------|---------|---------|---------|-----------|
| (Dollars in Thousands) |          |          |         |         |         |           |
| 0.00% - 2.99%          | \$22,789 | \$ 1,483 | \$ 461  | \$ ---  | \$ ---  | \$ 24,733 |
| 3.00% - 3.99%          | 19,065   | 5,245    | 48      | ---     | ---     | 24,358    |
| 4.00% - 4.99%          | 28,209   | 4,915    | 1,391   | 670     | 472     | 35,657    |
| 5.00% - 5.99%          | 18,347   | 4,268    | 864     | 401     | 791     | 24,671    |
| 6.00% - 6.99%          | 9,814    | 1,718    | 615     | 1,181   | ---     | 13,328    |
| 7.00% - 7.99%          | ---      | ---      | ---     | 252     | ---     | 252       |
|                        | \$98,224 | \$17,629 | \$3,379 | \$2,504 | \$1,263 | \$122,999 |
| \$100,000 and over     | \$15,831 | \$ 4,221 | \$ 300  | \$ 775  | \$ 400  | \$ 21,527 |
| Below \$100,000        | 82,393   | 13,408   | 3,079   | 1,729   | 863     | 101,472   |
| Total                  | \$98,224 | \$17,629 | \$3,379 | \$2,504 | \$1,263 | \$122,999 |

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**Borrowings.** Although deposits are our primary source of funds, we may utilize borrowings when they are a less costly source of funds and can be invested at a positive interest rate spread, when we desire additional capacity to fund loan demand or when they meet our asset/liability management goals. Our borrowings historically have consisted of advances from the Federal Home Loan Bank of San Francisco. See Note 7 of the Notes to Consolidated Financial Statements.

We may obtain advances from the Federal Home Loan Bank of San Francisco upon the security of certain of our mortgage loans and mortgage-backed and other securities. These advances may be made pursuant to several different credit programs, each of which has its own interest rate, range of maturities and call features. At December 31, 2001, we had \$28.0 million in Federal Home Loan Bank advances outstanding and the ability to borrow an additional \$141.7 million..

The following table sets forth certain information as to our borrowings at the dates or for the years indicated.

|                                                  | At or for the Year Ended December 31, |          |       |
|--------------------------------------------------|---------------------------------------|----------|-------|
|                                                  | 2001                                  | 2000     | 1999  |
| (Dollars in Thousands)                           |                                       |          |       |
| Average balance outstanding                      | \$36,992                              | \$21,792 | \$--- |
| Maximum month-end balance                        | \$59,000                              | \$53,800 | \$--- |
| Balance at end of period                         | \$28,000                              | \$53,800 | \$--- |
| Weighted average interest rate during the period | 7.14% <sup>(1)</sup>                  | 5.45%    | ---%  |
| Weighted average interest rate at end of period  | 4.67%                                 | 6.48%    | ---%  |

<sup>(1)</sup> Includes prepayment penalty of \$468,000.

## **Subsidiary and Other Activities**

As a federally chartered savings bank, we are permitted by Office of Thrift Supervision regulations to invest up to 2% of our assets, or \$6.2 million at December 31, 2001, in the stock of, or unsecured loans to, service corporation subsidiaries. We may invest an additional 1% of our assets in service corporations where such additional funds are used for inner-city or community development purposes. Pacific Trust Bank does not currently have any subsidiary service corporations.

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## **Competition**

We face strong competition in originating real estate and other loans and in attracting deposits. Competition in originating real estate loans comes primarily from other savings institutions, commercial banks, credit unions and mortgage bankers. Other savings institutions, commercial banks, credit unions and finance companies provide vigorous competition in consumer lending.

We attract our deposits through our branch office system and through the internet. Competition for those deposits is principally from other savings institutions, commercial banks and credit unions located in the same community, as well as mutual funds and other alternative investments. We compete for these deposits by offering superior service and a variety of deposit accounts at competitive rates.

## **Employees**

At December 31, 2001, we had a total of 62 full-time employees and 24 part-time employees. Our employees are not represented by any collective bargaining group. Management considers its employee relations to be good.

## **Properties**

At December 31, 2001, we had six full service offices, one limited service office and a commitment to purchase one full service office at a price of \$1.4 million. This office was opened subsequent to December 31, 2001. We own the office building in which our home office and executive offices are located. At December 31, 2001, we owned all but two of our other branch offices. The net book value of our investment in premises, equipment and leaseholds, excluding computer equipment, was approximately \$3.4 million at December 31, 2001.

We believe that our current facilities are adequate to meet the present and immediately foreseeable needs of Pacific Trust Bank and First PacTrust Bancorp, Inc.

We currently utilize Users DataSafe, an in-house data processing system. The net book value of the data processing and computer equipment utilized by us at December 31, 2001 was \$494,000.

## **Legal Proceedings**

From time to time we are involved as plaintiff or defendant in various legal actions arising in the normal course of business. We do not anticipate incurring any material liability as a result of such litigation.

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## **MANAGEMENT**

### **Management of First PacTrust Bancorp, Inc.,**

The board of directors of First PacTrust Bancorp, Inc. consists of the same individuals who serve as directors of Pacific Trust Bank. The board of directors of First PacTrust Bancorp, Inc. is divided into three classes, each of which contains approximately one-third of the board. The directors shall be elected by the stockholders of First PacTrust Bancorp, Inc. for three year terms, or until their successors are elected. One class of directors, consisting of Hans R. Ganz and Donald A. Purdy, has a term of office expiring at the first annual meeting of stockholders. A second class of directors, consisting of Alvin L. Majors and Donald A. Whitacre, has a term of office expiring at the second annual meeting of stockholders. The third class of directors, consisting of Francis P. Burke and Kenneth W. Scholz, has a term of office expiring at the third annual meeting of stockholders.

The following individuals are executive officers of First PacTrust Bancorp, Inc. and hold the offices set forth below opposite their names.

Executive

Position Held with First PacTrust Bancorp, Inc.

The executive officers of First PacTrust Bancorp, Inc. are elected annually and hold office until their respective successors have been elected or until death, resignation or removal by the board of directors.

Information concerning the principal occupations, employment and compensation of the directors and executive officers of First PacTrust Bancorp, Inc. is set forth under "- Management of Pacific Trust Bank" and "- Executive Officers Who Are Not Directors." Directors of First PacTrust Bancorp, Inc. initially will not be compensated by First PacTrust Bancorp, Inc. but will serve and be compensated by Pacific Trust Bank. It is not anticipated that separate compensation will be paid to directors of First PacTrust Bancorp, Inc. until such time as these persons devote significant time to the separate management of First PacTrust Bancorp, Inc.'s affairs, which is not expected to occur until First PacTrust Bancorp, Inc. becomes actively engaged in additional businesses other than holding the stock of Pacific Trust Bank. First PacTrust Bancorp, Inc. may determine that such compensation is appropriate in the future.

### Management of Pacific Trust Bank

Because Pacific Trust Bank is a mutual savings bank, its members have elected its board of directors. Upon completion of the conversion, the directors of Pacific Trust Bank immediately prior to the conversion will continue to serve as directors of Pacific Trust Bank in stock form. The board of directors of Pacific Trust Bank in stock form will consist of six directors divided into three classes, with approximately one-third of the directors elected at each annual meeting of stockholders. Because First PacTrust Bancorp, Inc. will own all the issued and outstanding capital stock of Pacific Trust Bank following the conversion, the board of directors of First PacTrust Bancorp, Inc. will elect the directors of Pacific Trust Bank.

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The following table sets forth certain information regarding the board of directors of Pacific Trust Bank.

| Name               | Age <sup>(1)</sup> | Positions Held With Pacific Trust Bank          | Director Since | Term of Office Expires |
|--------------------|--------------------|-------------------------------------------------|----------------|------------------------|
| Alvin L. Majors    | 61                 | Chairman of the Board                           | 1985           | 2004                   |
| Hans R. Ganz       | 47                 | President, Chief Executive Officer and Director | 2000           | 2003                   |
| Francis P. Burke   | 62                 | Director                                        | 1994           | 2005                   |
| Kenneth W. Scholz  | 52                 | Director                                        | 1998           | 2005                   |
| Donald M. Purdy    | 70                 | Director                                        | 1998           | 2003                   |
| Donald A. Whitacre | 49                 | Director                                        | 2001           | 2004                   |

<sup>(1)</sup> As of January 31, 2002.

The business experience of each director for at least the past five years is set forth below.

**Alvin L. Majors.** Mr. Majors is currently retired, although he does do consulting on a part-time basis for a start-up private company. He also serves on the finance committee of Alliance Healthcare Foundation. Prior to his retirement, he was employed by Rohrs, Inc. for 26 years, with his last title being Vice President and Controller. Prior to joining Rohr, Inc., Mr. Majors worked for Deloitte and Touche for five years.

**Hans R. Ganz.** Mr. Ganz has been President and Chief Executive Officer of Pacific Trust Bank, and its predecessor since 1995, and a Director since 2000. He has been employed with Pacific Trust Bank and its predecessor in various other capacities since 1992.

**Francis P. Burke.** Mr. Burke is currently retired. He retired from Rohr, Inc. as Vice President of Airline Support in 1997 after over 20 years of service in various positions, including Vice President, System Management, Program Manager, and Director, G.E./CFMI Programs, and with Rohr Marine, Inc. as Vice President and Surface Effect Ship Program Manager. He previously served six years as Executive Vice President of RMI, Inc., responsible for Business Development, Programs & Technology and Operations.

**Kenneth W. Scholz.** Mr. Scholz is Finance Director and Controller of Goodrich Aerostructures, an aerospace manufacturing company located in Chula Vista, California. He has served in this capacity since 1997, and in various other capacities for Goodrich Aerostructures since 1978.

**Donald M. Purdy.** Mr. Purdy is currently retired. He served as Senior Vice President - Commercial Business for Rohr, Inc., Chula Vista, CA, from 1989 to 1994, and was employed by Rohr, Inc. in various capacities for a period of 43 years.

**Donald A. Whitacre.** Mr. Whitacre is President of D.A. Whitacre Construction, Inc., a commercial framing construction company located in El Cajon, California. He has operated this company since 1978.

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## **Executive Officers Who Are Not Directors**

Each of the executive officers of Pacific Trust Bank will retain his or her office following the conversion. Officers are elected annually by the board of directors of Pacific Trust Bank. The business experience for at least the past five years for each of the six executive officers of Pacific Trust Bank who do not serve as directors is set forth below.

**James P. Sheehy.** Age 55 years. Mr. Sheehy serves as Senior Vice President, a position he has held since 1997 and Secretary and Treasurer for Pacific Trust Bank, positions he has held since 1999. He has been employed by Pacific Trust Bank since 1987.

**Melanie M. Stewart.** Age 41 years. Ms. Stewart is Senior Vice President of Lending at Pacific Trust Bank. She has served in this position since 1998, and started with Pacific Trust Bank in 1990.

**Gayle N. Bland.** Age 63 years. Ms. Bland, served as Senior Vice President since 1998. She has been employed by Pacific Trust Bank since 1973.

**Rachel M. Carrillo.** Age 31 years. Ms. Carrillo is a Vice President of Branch Operations. She has served in this capacity since 1998. Ms. Carrillo has served in various other capacities at Pacific Trust Bank since 1993.

**Regan J. Gallagher.** Age 32 years. Ms. Gallagher is currently serving as Vice President - Controller of Pacific Trust Bank, a position she has held since 2000. Prior to her position with Pacific Trust, Ms. Gallagher was a Senior Accountant with Deloitte & Touche.

**Lisa R. Carpenter.** Age 32 years. Ms. Carpenter is currently serving as Vice President Information Systems, a position she has held since 2001. Prior to serving as Vice President of Information Systems, Ms. Carpenter was an Assistant Vice President, and has been employed by Pacific Trust Bank since 1997. Prior to her position with Pacific Trust, Ms. Carpenter was an Associate Systems Engineer with Security Pacific Financial Services, a Bank of America Company, from 1993 to 1997.

## **Meetings and Committees of the Board of Directors**

Our board of directors meets monthly. During the year ended December 31, 2001, the board of directors held 12 meetings. No director attended fewer than 75% of the total meetings of the board of directors and committees on which such board member served during this period.

We currently have standing Executive, Loan, Audit and Technology Committees. We do not have a standing Nominating Committee; rather, the Chairman appoints three members of the Bank to the nominating committee.

The Loan Committee is comprised of directors Scholz, Purdy, Whitacre and Ganz. The Loan Committee meets as needed to approve all loans over \$3.5 million, and other non-standard loans, and to review and revise loan policies. This committee met 10 times in 2001.

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The Audit Committee is comprised of Directors Majors, Scholz and Whitacre. The Audit Committee meets at least quarterly and on an as needed basis. The Audit Committee hires the independent auditors and reviews the audit report prepared by the independent auditors. This committee met five times in 2001.

The Executive Committee is comprised of Directors Majors, Burke, Purdy and Ganz. The Executive Committee meets on an as needed basis and is empowered to act on behalf of the entire board. This committee met one time in 2001.

The Technology Committee is comprised of Directors Burke, Majors, Ganz and officer Carpenter. The Technology Committee meets on an as needed basis. The Technology Committee reviews and approves plans for changes and enhancements to the Bank's data processing and telecommunications systems, and to approve contracts with related system and service providers. This committee met one time in 2001.

## Directors' Compensation

Members of Pacific Trust Bank's board of directors receive a fee of \$600 for each board meeting attended. In addition, the Chairman of the Board receives an additional \$300 per meeting attended and each director receives \$200 for committee meetings attended. Attendance by telephone is compensated at one-third the rate for directors attending in person.

## Executive Compensation

The following table sets forth a summary of certain information concerning the compensation paid by Pacific Trust Bank, including amounts deferred to future periods by the officers, for services rendered in all capacities during the year ended December 31, 2001 to the President and Chief Executive Officer of Pacific Trust Bank and the three other highest compensated executive officers of Pacific Trust Bank whose salary and bonus exceeded \$100,000.

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### Summary Compensation Table

| Name and Principal Position                                     | Fiscal Year | Annual Compensation |        | Long Term Compensation Awards                 |                                            |                            |                                       |
|-----------------------------------------------------------------|-------------|---------------------|--------|-----------------------------------------------|--------------------------------------------|----------------------------|---------------------------------------|
|                                                                 |             | Salary              | Bonus  | Other Annual Compensation (\$) <sup>(1)</sup> | Restricted Stock Award (\$) <sup>(2)</sup> | Options (#) <sup>(2)</sup> | All Other Compensation <sup>(3)</sup> |
| Hans R. Ganz, President, Chief Executive Officer and Director   | 2001        | \$178,850           | 95,000 | ---                                           | ---                                        | ---                        | \$6,800 <sup>(3)</sup>                |
| James P. Sheehy, Senior Vice President, Secretary and Treasurer | 2001        | 89,459              | 27,500 | ---                                           | ---                                        | ---                        | 4,345 <sup>(3)</sup>                  |
| Melanie M. Stewart, Senior Vice President, Lending              | 2001        | 86,867              | 40,000 | ---                                           | ---                                        | ---                        | 1,805 <sup>(3)</sup>                  |

(1) This amount does not include personal benefits or perquisites which did not exceed the lesser of \$50,000 or 10% of the named individuals' salary and bonus.

(2) As a mutual institution, Pacific Trust Bank does not have any stock option or restricted stock plans. Pacific Trust Bank does, however, intend to adopt such plans following the conversion. See "- Benefits -- Other Stock Benefit Plans."

(3) This amount represents Pacific Trust Bank's contribution to its 401(k) plan on behalf of the named executive officers.

## Benefits

**General.** Pacific Trust Bank currently provides health and welfare benefits to its employees, including hospitalization, comprehensive medical insurance, dental, life, short term and long-term disability insurance, subject to certain deductibles and copayments by employees. Pacific Trust Bank also provides certain retirements benefits. See Note 12 of the Notes to Consolidated Financial Statements.

**Pacific Trust Bank Deferred Compensation Plan.** Pacific Trust Bank also maintains an executive deferral program for the benefit of certain senior executives that have been designated to participate in the program. The program allows an additional opportunity for key executives to defer a portion of their income into a non-qualified deferral program to supplement their retirement earnings. Mr. Ganz had \$12,000 in income deferred pursuant to this program during 2001.

**Employee Stock Ownership Plan.** First PacTrust Bancorp, Inc. intends to adopt an employee stock ownership plan for employees of First PacTrust Bancorp, Inc. and Pacific Trust Bank to become effective upon the conversion. Employees of First PacTrust Bancorp, Inc. and Pacific Trust Bank who have been credited with at least 1,000 hours of service during a twelve month period are eligible to participate in the employee stock ownership plan.

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As part of the conversion, it is anticipated that the employee stock ownership plan will borrow funds from First PacTrust Bancorp, Inc. The employee stock ownership plan will use these funds to purchase up to 8.0% of the common stock issued in the conversion. It is anticipated that this loan will equal 100% of the aggregate purchase price of the common stock acquired by the employee stock ownership plan. The loan to the employee stock ownership plan will be repaid principally from Pacific Trust Bank's contributions to the employee stock ownership plan over a period of 10 years, and the collateral for the loan will be the common stock purchased by the employee stock ownership plan. The interest rate for the loan is expected to be the minimum rate prescribed by the Internal Revenue Code. First PacTrust Bancorp, Inc. may, in any plan year, make additional discretionary contributions for the benefit of plan participants in either cash or shares of common stock, which may be acquired through the purchase of outstanding shares in the market or from individual stockholders, upon the original issuance of additional shares by First PacTrust Bancorp, Inc. or upon the sale of treasury shares by First PacTrust Bancorp, Inc. These purchases, if made, would be funded through additional borrowings by the employee stock ownership plan or additional contributions from First PacTrust Bancorp, Inc. The timing, amount and manner of future contributions to the employee stock ownership plan will be affected by various factors, including prevailing regulatory policies, the requirements of applicable laws and regulations and market conditions.

Shares purchased by the employee stock ownership plan with the proceeds of the loan will be held in a suspense account and released to participants' accounts as debt service payments are made. Shares released from the employee stock ownership plan will be allocated to each eligible participant's employee stock ownership plan account based on the ratio of each such participant's compensation to the total compensation of all eligible employee stock ownership plan participants. Forfeitures will be reallocated among remaining participating employees and may reduce any amount First PacTrust Bancorp, Inc. might otherwise have contributed to the employee stock ownership plan. The account balances of participants within the employee stock ownership plan will become 100% vested after five years of service. Credit for eligibility and vesting is given for years of service with Pacific Trust Bank prior to adoption of the employee stock ownership plan. In the case of a "change in control," as defined in the employee stock ownership plan, which triggers a termination of the employee stock ownership plan, participants will become immediately fully vested in their account balances. Benefits are payable upon retirement or other separation from service. First PacTrust Bancorp, Inc.'s contributions to the employee stock ownership plan are not fixed, so benefits payable under the employee stock ownership plan cannot be estimated.

\_\_\_\_\_ will serve as trustee of the employee stock ownership plan. Under the employee stock ownership plan, the trustee must vote all allocated shares held in the employee stock ownership plan in accordance with the instructions of the participating employees, and unallocated shares will be voted in the same ratio on any matter as those allocated shares for which instructions are given.

GAAP requires that any third party borrowing by the employee stock ownership plan be reflected as a liability on First PacTrust Bancorp, Inc.'s statement of financial condition. Since the employee stock ownership plan is borrowing from First PacTrust Bancorp, Inc., such obligation is not treated as a liability, but will be excluded from stockholders' equity. If the employee stock ownership plan purchases newly issued shares from First PacTrust Bancorp, Inc., total stockholders' equity would neither increase nor decrease, but per share stockholders' equity and per share net earnings would decrease as the newly issued shares are allocated to the employee stock ownership plan participants.

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The employee stock ownership plan will be subject to the requirements of ERISA, and the regulations of the IRS and the Department of Labor thereunder.

**Other Stock Benefit Plans.** In the future, we intend to adopt a stock option plan and a restricted stock plan for the benefit of selected directors, officers and employees. We anticipate that the stock option plan and restricted stock plan will have reserved a number of shares equal to 10% and 4%, respectively, of the First PacTrust Bancorp, Inc. common stock sold in the conversion. Grants of common stock pursuant to the restricted stock plan will be issued without cost to the recipient. If a determination is made to implement a stock option plan or restricted stock plan, it is anticipated that any such plans will be submitted to stockholders for their consideration at which time stockholders would be provided with detailed information regarding such plan. If such plans are approved, and effected, they will have a dilutive effect on First PacTrust Bancorp, Inc.'s stockholders as well as affect First PacTrust Bancorp, Inc.'s net income and stockholders' equity, although the actual results cannot be determined until such plans are implemented. Any such stock option plan or restricted stock plan will not be implemented less than six months after the date of the completion of the conversion, subject to continuing Office of Thrift Supervision jurisdiction.

**Termination Agreements for Executive Officers.** In connection with the conversion, Pacific Trust Bank intends to enter into three-year termination agreements with Messrs. Ganz and Sheehy and Ms. Stewart. The termination agreements provide for a severance payment and other benefits in the event of a change in control of First PacTrust Bancorp or Pacific Trust Bank.

The value of the severance benefits under the termination agreements is 2.99 times the executive's average annual W-2 compensation during the five calendar year period prior to the effective date of the change in control (base amount) for Mr. Ganz, and 2.00 times for Mr. Sheehy and Ms. Stewart. Assuming that a change in control had occurred at December 31, 2001, Messrs. Ganz and Sheehy and Ms. Stewart would be entitled to a payment of approximately \$\_\_\_\_\_, \$\_\_\_\_\_ and \$\_\_\_\_\_, respectively. Section 280G of the Internal Revenue Code provides that severance payments that equal or exceed three times the individual's base amount are deemed to be "excess parachute payments" if they are conditioned upon a change in control.

Individuals receiving parachute payments in excess of three times their base amount are subject to a 20% excise tax on the amount of the excess payments. If excess parachute payments are made, First PacTrust Bancorp and Pacific Trust would not be entitled to deduct the amount of the excess payment. The termination agreements provide that severance and other payments that are subject to a change in control will be reduced as much as necessary to ensure that no amounts payable to the executive will be considered excess parachute payments.

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## **Loans and Other Transactions with Officers and Directors**

Pacific Trust Bank has followed a policy of granting loans to officers and directors, which fully complies with all applicable federal regulations. Loans to directors and executive officers are made in the ordinary course of business and on the same terms and conditions as those of comparable transactions with non-insider employees prevailing at the time, in accordance with our underwriting guidelines, and do not involve more than the normal risk of collectibility or present other unfavorable features.

All loans we make to our directors and executive officers are subject to Office of Thrift Supervision regulations restricting loans and other transactions with affiliated persons of Pacific Trust Bank. Loans to all directors and executive officers and their associates totaled approximately \$1.2 million at December 31, 2001, which was 4.2% of our equity at that date. All loans to directors and executive officers were performing in accordance with their terms at December 31, 2001.

## **HOW WE ARE REGULATED**

Set forth below is a brief description of certain laws and regulations which are applicable to First PacTrust Bancorp, Inc. and Pacific Trust Bank. The description of these laws and regulations, as well as descriptions of laws and regulations contained elsewhere herein, does not purport to be complete and is qualified in its entirety by reference to the applicable laws and regulations.

Legislation is introduced from time to time in the United States Congress that may affect the operations of First PacTrust Bancorp, Inc. and Pacific Trust Bank. In addition, the regulations governing First PacTrust Bancorp, Inc. and Pacific Trust Bank may be amended from time to time by the Office of Thrift Supervision. Any such legislation or regulatory changes in the future could adversely affect First PacTrust Bancorp, Inc. or Pacific Trust Bank. No assurance can be given as to whether or in what form any such changes may occur.

## **General**

Pacific Trust Bank, as a federally chartered savings institution, is subject to federal regulation and oversight by the Office of Thrift Supervision extending to all aspects of its operations. Pacific Trust Bank also is subject to regulation and examination by the FDIC, which insures the deposits of Pacific Trust Bank to the maximum extent permitted by law, and requirements established by the Federal Reserve Board. Federally chartered savings institutions are required to file periodic reports with the Office of Thrift Supervision and are subject to periodic examinations by the Office of Thrift Supervision and the FDIC. The investment and lending authority of savings institutions are prescribed by federal laws and regulations, and such institutions are prohibited from engaging in any activities not permitted by such laws and regulations. Such regulation and supervision primarily is intended for the protection of depositors and not for the purpose of protecting shareholders. This regulatory oversight will continue to apply to Pacific Trust Bank following the reorganization.

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The Office of Thrift Supervision regularly examines Pacific Trust Bank and prepares reports for the consideration of Pacific Trust Bank's board of directors on any deficiencies that it may find in Pacific Trust Bank's operations. The FDIC also has the authority to examine Pacific Trust Bank in its role as the administrator of the Savings Association Insurance Fund. Our relationship with its depositors and borrowers also is regulated to a great extent by both Federal and state laws, especially in such matters as the ownership of savings accounts and the form and content of our mortgage requirements. Any change in such regulations, whether by the FDIC, the Office of Thrift Supervision or Congress, could have a material adverse impact on First PacTrust Bancorp, Inc. and Pacific Trust Bank and their operations.

## **First PacTrust Bancorp, Inc.**

Pursuant to regulations of The Office of Thrift Supervision and the terms of First PacTrust Bancorp, Inc.'s Maryland charter, the purpose and powers of First PacTrust Bancorp, Inc. are to pursue any or all of the lawful objectives of a thrift holding company and to exercise any of the powers accorded to a thrift holding company.

If we fail the qualified thrift lender test, First PacTrust Bancorp, Inc. must obtain the approval of the Office of Thrift Supervision prior to continuing after such failure, directly or through other subsidiaries, any business activity other than those approved for multiple thrift companies or their subsidiaries. In addition, within one year of such failure First PacTrust Bancorp, Inc. must register as, and will become subject to, the restrictions applicable to bank holding companies.

## **Pacific Trust Bank**

The Office of Thrift Supervision has extensive authority over the operations of savings institutions. As part of this authority, we are required to file periodic reports with the Office of Thrift Supervision and we are subject to periodic examinations by the Office of Thrift Supervision and the FDIC. When these examinations are conducted by the Office of Thrift Supervision and the FDIC, the examiners may require Pacific Trust Bank to provide for higher general or specific loan loss reserves. All savings institutions are subject to a semi-annual assessment, based upon the savings institution's total assets, to fund the operations of the Office of Thrift Supervision.

The Office of Thrift Supervision also has extensive enforcement authority over all savings institutions and their holding companies, including Pacific Trust Bank and First PacTrust Bancorp, Inc. This enforcement authority includes, among other things, the ability to assess civil money penalties, to issue cease-and-desist or removal orders and to initiate injunctive actions. In general, these enforcement actions may be initiated for violations of laws and regulations and unsafe or unsound practices. Other actions or inactions may provide the basis for enforcement action, including misleading or untimely reports filed with the Office of Thrift Supervision. Except under certain circumstances, public disclosure of final enforcement actions by the Office of Thrift Supervision is required.

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In addition, the investment, lending and branching authority of Pacific Trust Bank is prescribed by federal laws and it is prohibited from engaging in any activities not permitted by such laws. For instance, no savings institution may invest in non-investment grade corporate debt securities. In addition, the permissible level of investment by federal institutions in loans secured by non-residential real property may not exceed 400% of total capital, except with approval of the Office of Thrift Supervision. Federal savings institutions are also generally authorized to branch nationwide. Pacific Trust Bank is in compliance with the noted restrictions.

Pacific Trust Bank's general permissible lending limit for loans-to-one-borrower is equal to the greater of \$500,000 or 15% of unimpaired capital and surplus (except for loans fully secured by certain readily marketable collateral, in which case this limit is increased to 25% of unimpaired capital and surplus). At December 31, 2001, Pacific Trust Bank's lending limit under this restriction was \$4.3 million. Pacific Trust Bank is in compliance with the loans-to-one-borrower limitation.

The Office of Thrift Supervision, as well as the other federal banking agencies, has adopted guidelines establishing safety and soundness standards on such matters as loan underwriting and documentation, asset quality, earnings standards, internal controls and audit systems, interest rate risk exposure and compensation and other employee benefits. Any institution which fails to comply with these standards must submit a compliance plan.

## **Insurance of Accounts and Regulation by the FDIC**

Pacific Trust Bank is a member of the Savings Association Insurance Fund, which is administered by the FDIC. Deposits are insured up to the applicable limits by the FDIC and such insurance is backed by the full faith and credit of the United States Government. As insurer, the FDIC imposes deposit insurance premiums and is authorized to conduct examinations of and to require reporting by FDIC-insured institutions. It also may prohibit any FDIC-insured institution from engaging in any activity the FDIC determines by regulation or order to pose a serious risk to the Savings Association Insurance Fund or the Bank Insurance Fund. The FDIC also has the authority to initiate enforcement actions against savings institutions, after giving the Office of Thrift Supervision an opportunity to take such action, and may terminate the deposit insurance if it determines that the institution has engaged in unsafe or unsound practices or is in an unsafe or unsound condition.

## **Regulatory Capital Requirements**

Federally insured savings institutions, such as Pacific Trust Bank, are required to maintain a minimum level of regulatory capital. The Office of Thrift Supervision has established capital standards, including a tangible capital requirement, a leverage ratio or core capital requirement and a risk-based capital requirement applicable to such savings institutions. These capital requirements must be generally as stringent as the comparable capital requirements for national banks. The Office of Thrift Supervision is also authorized to impose capital requirements in excess of these standards on a case-by-case basis.

The capital regulations require tangible capital of at least 1.5% of adjusted total assets, as defined by regulation. Tangible capital generally includes common stockholders' equity and retained earnings, and certain noncumulative perpetual preferred stock and related earnings. In addition, generally all intangible assets, other than a limited amount of purchased mortgage servicing rights, and certain other items, must be deducted from tangible capital for calculating compliance with the requirement. At December 31, 2001, Pacific Trust Bank had no intangible assets.

At December 31, 2001, Pacific Trust Bank had tangible capital of \$28.7 million, or 9.2% of adjusted total assets, which is approximately \$24.0 million above the minimum requirement of 1.5% of adjusted total assets in effect on that date.

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The capital standards also require core capital equal to at least 3.0% of adjusted total assets. Core capital generally consists of tangible capital plus certain intangible assets, including a limited amount of purchased credit card relationships. As a result of the prompt corrective action provisions discussed below, however, a savings institution must maintain a core capital ratio of at least 4.0% to be considered adequately capitalized unless its supervisory condition is such as to allow it to maintain a 3.0% ratio. At December 31, 2001, Pacific Trust Bank had no intangibles which were subject to these tests.

At December 31, 2001, Pacific Trust Bank had core capital equal to \$28.7 million, or 9.2% of adjusted total assets, which is \$16.2 million above the minimum requirement of 4.0% in effect on that date.

The Office of Thrift Supervision also requires savings institutions to have total capital of at least 8.0% of risk-weighted assets. Total capital consists of core capital, as defined above, and supplementary capital. Supplementary capital consists of certain permanent and maturing capital instruments that do not qualify as core capital and general valuation loan and lease loss allowances up to a maximum of 1.25% of risk-weighted assets. Supplementary capital may be used to satisfy the risk-based requirement only to the extent of core capital. The Office of Thrift Supervision is also authorized to require a savings institution to maintain an additional amount of total capital to account for concentration of credit risk and the risk of non-traditional activities. At December 31, 2001, Pacific Trust Bank had \$1.7 million of general loan loss reserves, which was less than 1.25% of risk-weighted assets.

In determining the amount of risk-weighted assets, all assets, including certain off-balance sheet items, will be multiplied by a risk weight, ranging from 0% to 100%, based on the risk inherent in the type of asset. For example, the Office of Thrift Supervision has assigned a risk weight of 50% for prudently underwritten permanent one- to four-family first lien mortgage loans not more than 90 days delinquent and having a loan-to-value ratio of not more than 80% at origination unless insured to such ratio by an insurer approved by Fannie Mae or Freddie Mac.

On December 31, 2001, Pacific Trust Bank had total risk-based capital of \$30.4 million and risk-weighted assets of \$197.4 million; or total capital of 15.4% of risk-weighted assets. This amount was \$14.6 million above the 8.0% requirement in effect on that date.

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The Office of Thrift Supervision and the FDIC are authorized and, under certain circumstances, required to take certain actions against savings institutions that fail to meet their capital requirements. The Office of Thrift Supervision is generally required to take action to restrict the activities of an "undercapitalized institution," which is an institution with less than either a 4% core capital ratio, a 4% Tier 1 risk-based capital ratio or an 8.0% risk-based capital ratio. Any such institution must submit a capital restoration plan and until such plan is approved by the Office of Thrift Supervision may not increase its assets, acquire another institution, establish a branch or engage in any new activities, and generally may not make capital distributions. The Office of Thrift Supervision is authorized to impose the additional restrictions.

As a condition to the approval of the capital restoration plan, any company controlling an undercapitalized institution must agree that it will enter into a limited capital maintenance guarantee with respect to the institution's achievement of its capital requirements.

Any savings institution that fails to comply with its capital plan or has Tier 1 risk-based or core capital ratios of less than 3.0% or a risk-based capital ratio of less than 6.0% and is considered "significantly undercapitalized" must be made subject to one or more additional specified actions and operating restrictions which may cover all aspects of its operations and may include a forced merger or acquisition of the institution. An institution that becomes "critically undercapitalized" because it has a tangible capital ratio of 2.0% or less is subject to further mandatory restrictions on its activities in addition to those applicable to significantly undercapitalized institutions. In addition, the Office of Thrift Supervision must appoint a receiver, or conservator with the concurrence of the FDIC, for a savings institution, with certain limited exceptions, within 90 days after it becomes critically undercapitalized. Any undercapitalized institution is also subject to the general enforcement authority of the Office of Thrift Supervision and the FDIC, including the appointment of a conservator or a receiver.

The Office of Thrift Supervision is also generally authorized to reclassify an institution into a lower capital category and impose the restrictions applicable to such category if the institution is engaged in unsafe or unsound practices or is in an unsafe or unsound condition.

The imposition by the Office of Thrift Supervision or the FDIC of any of these measures on Pacific Trust Bank may have a substantial adverse effect on its operations and profitability.

## **Limitations on Dividends and Other Capital Distributions**

Office of Thrift Supervision regulations impose various restrictions on savings institutions with respect to their ability to make distributions of capital, which include dividends, stock redemptions or repurchases, cash-out mergers and other transactions charged to the capital account.

Generally, savings institutions, such as Pacific Trust Bank, that before and after the proposed distribution remain well-capitalized, may make capital distributions during any calendar year equal to up to 100% of net income for the year-to-date plus retained net income for the two preceding years. However, an institution deemed to be in need of more than normal supervision by the Office of Thrift Supervision may have its dividend authority restricted by the Office of Thrift Supervision. Pacific Trust Bank may pay dividends in accordance with this general authority.

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Savings institutions proposing to make any capital distribution need not submit written notice to the Office of Thrift Supervision prior to such distribution unless they are a subsidiary of a holding company or would not remain well-capitalized following the distribution. Savings institutions that do not, or would not meet their current minimum capital requirements following a proposed capital distribution or propose to exceed these net income limitations must obtain Office of Thrift Supervision approval prior to making such distribution. The Office of Thrift Supervision may object to the distribution during that 30-day period based on safety and soundness concerns. See "- Regulatory Capital Requirements."

## **Liquidity**

All savings institutions, including Pacific Trust Bank, are required to maintain sufficient liquidity to ensure a safe and sound operation.

## **Qualified Thrift Lender Test**

All savings institutions, including Pacific Trust Bank, are required to meet a qualified thrift lender test to avoid certain restrictions on their operations. This test requires a savings institution to have at least 65% of its portfolio assets, as defined by regulation, in qualified thrift investments on a monthly average for nine out of every 12 months on a rolling basis. As an alternative, the savings institution may maintain 60% of its assets in those assets specified in Section 7701(a)(19) of the Internal Revenue Code. Under either test, such assets primarily consist of residential housing related loans and investments. At December 31, 2001, Pacific Trust Bank met the test and has always met the test since its effectiveness.

Any savings institution that fails to meet the qualified thrift lender test must convert to a national bank charter, unless it requalifies as a qualified thrift lender and thereafter remains a qualified thrift lender. If an institution does not requalify and converts to a national bank charter, it must remain Savings Association Insurance Fund-insured until the FDIC permits it to transfer to the Bank Insurance Fund. If such an institution has not yet requalified or converted to a national bank, its new investments and activities are limited to those permissible for both a savings institution and a national bank, and it is limited to national bank branching rights in its home state. In addition, the institution is immediately ineligible to receive any new Federal Home Loan Bank borrowings and is subject to national bank limits for payment of dividends. If such an institution has not requalified or converted to a national bank within three years after the failure, it must divest of all investments and cease all activities not permissible for a national bank. In addition, it must repay promptly any outstanding Federal Home Loan Bank borrowings, which may result in prepayment penalties. If any institution that fails the qualified thrift lender test is controlled by a holding company, then within one year after the failure, the holding company must register as a bank holding company and become subject to all restrictions on bank holding companies.

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## **Community Reinvestment Act**

Under the Community Reinvestment Act, every FDIC-insured institution has a continuing and affirmative obligation consistent with safe and sound banking practices to help meet the credit needs of its entire community, including low and moderate income neighborhoods. The Community Reinvestment Act does not establish specific lending requirements or programs for financial institutions nor does it limit an institution's discretion to develop the types of products and services that it believes are best suited to its particular community, consistent with the Community Reinvestment Act. The Community Reinvestment Act requires the Office of Thrift Supervision, in connection with the examination of Pacific Trust Bank, to assess the institution's record of meeting the

credit needs of its community and to take such record into account in its evaluation of certain applications, such as a merger or the establishment of a branch, by Pacific Trust Bank. An unsatisfactory rating may be used as the basis for the denial of an application by the Office of Thrift Supervision. Due to the heightened attention being given to the Community Reinvestment Act in the past few years, Pacific Trust Bank may be required to devote additional funds for investment and lending in its local community. Pacific Trust Bank was examined for Community Reinvestment Act compliance in March 2001, and received a rating of satisfactory.

## **Transactions with Affiliates**

Generally, transactions between a savings institution or its subsidiaries and its affiliates are required to be on terms as favorable to the institution as transactions with non-affiliates. In addition, certain of these transactions, such as loans to an affiliate, are restricted to a percentage of the institution's capital. Affiliates of Pacific Trust Bank include First PacTrust Bancorp, Inc. and any company which is under common control with Pacific Trust Bank. In addition, a savings institution may not lend to any affiliate engaged in activities not permissible for a bank holding company or acquire the securities of most affiliates. The Office of Thrift Supervision has the discretion to treat subsidiaries of savings institutions as affiliates on a case by case basis.

Certain transactions with directors, officers or controlling persons are also subject to conflict of interest regulations enforced by the Office of Thrift Supervision. These conflict of interest regulations and other statutes also impose restrictions on loans to such persons and their related interests. Among other things, such loans must generally be made on terms substantially the same as for loans to unaffiliated individuals.

## **Federal Securities Law**

The stock of First PacTrust Bancorp, Inc. is registered with the SEC under the Securities Exchange Act of 1934, as amended. First PacTrust Bancorp, Inc. will be subject to the information, proxy solicitation, insider trading restrictions and other requirements of the SEC under the Securities Exchange Act of 1934.

First PacTrust Bancorp, Inc. stock held by persons who are affiliates of First PacTrust Bancorp, Inc. may not be resold without registration unless sold in accordance with certain resale restrictions. Affiliates are generally considered to be officers, directors and principal stockholders. If First PacTrust Bancorp, Inc. meets specified current public information requirements, each affiliate of First PacTrust Bancorp, Inc. will be able to sell in the public market, without registration, a limited number of shares in any three-month period.

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## **Federal Reserve System**

The Federal Reserve Board requires all depository institutions to maintain non-interest bearing reserves at specified levels against their transaction accounts, primarily checking, NOW and Super NOW checking accounts. At December 31, 2001, Pacific Trust Bank was in compliance with these reserve requirements. The balances maintained to meet the reserve requirements imposed by the Federal Reserve Board may be used to satisfy liquidity requirements that may be imposed by the Office of Thrift Supervision. See "- Liquidity."

Savings institutions are authorized to borrow from the Federal Reserve Bank "discount window," but Federal Reserve Board regulations require institutions to exhaust other reasonable alternative sources of funds, including Federal Home Loan Bank borrowings, before borrowing from the Federal Reserve Bank.

## **Federal Home Loan Bank System**

Pacific Trust Bank is a member of the Federal Home Loan Bank of San Francisco, which is one of 12 regional Federal Home Loan Banks, that administers the home financing credit function of savings institutions. Each Federal Home Loan Bank serves as a reserve or central bank for its members within its assigned region. It is funded primarily from proceeds derived from the sale of consolidated obligations of the Federal Home Loan Bank System. It makes loans or advances to members in accordance with policies and procedures, established by the board of directors of the Federal Home Loan Bank, which are subject to the oversight of the Federal Housing Finance Board. All advances from the Federal Home Loan Bank are required to be fully secured by sufficient collateral as determined by the Federal Home Loan Bank. In addition, all long-term advances are required to provide funds for residential home financing.

As a member, Pacific Trust Bank is required to purchase and maintain stock in the Federal Home Loan Bank of San Francisco. At December 31, 2001, Pacific Trust Bank had \$2.5 million in Federal Home Loan Bank stock, which was in compliance with this requirement. In past years, Pacific Trust Bank has received substantial dividends on its Federal Home Loan Bank stock. Over the past three fiscal years such dividends have averaged 6.22% and were 6.05% for 2001.

Under federal law the Federal Home Loan Banks are required to provide funds for the resolution of troubled savings institutions and to contribute to low- and moderately priced housing programs through direct loans or interest subsidies on advances targeted for community investment and low- and moderate-income housing projects. These contributions have affected adversely the level

of Federal Home Loan Bank dividends paid and could continue to do so in the future. These contributions could also have an adverse effect on the value of Federal Home Loan Bank stock in the future. A reduction in value of Pacific Trust Bank's Federal Home Loan Bank stock may result in a corresponding reduction in Pacific Trust Bank's capital.

For the year ended December 31, 2001, dividends paid by the Federal Home Loan Bank of San Francisco to Pacific Trust Bank totaled \$166,000, as compared to \$112,000 for all of 2000.

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## TAXATION

### Federal Taxation

**General.** First PacTrust Bancorp, Inc. and Pacific Trust Bank will be subject to federal income taxation in the same general manner as other corporations, with some exceptions discussed below. The following discussion of federal taxation is intended only to summarize certain pertinent federal income tax matters and is not a comprehensive description of the tax rules applicable to First PacTrust Bancorp, Inc. or Pacific Trust Bank. Pacific Trust Bank's federal income tax returns have never been audited. Prior to January 1, 2000, Pacific Trust Bank was a credit union, not generally subject to corporate income tax.

Following the conversion, First PacTrust Bancorp, Inc. anticipates that it will file a consolidated federal income tax return with Pacific Trust Bank commencing with the first taxable year after completion of the conversion. Accordingly, it is anticipated that any cash distributions made by First PacTrust Bancorp, Inc. to its stockholders would be considered to be taxable dividends and not as a non-taxable return of capital to stockholders for federal and state tax purposes.

**Method of Accounting.** For federal income tax purposes, Pacific Trust Bank currently reports its income and expenses on the accrual method of accounting and uses a fiscal year ending on December 31, for filing its federal income tax return.

**Minimum Tax.** The Internal Revenue Code imposes an alternative minimum tax at a rate of 20% on a base of regular taxable income plus certain tax preferences, called alternative minimum taxable income. The alternative minimum tax is payable to the extent such alternative minimum taxable income is in excess of an exemption amount. Net operating losses can offset no more than 90% of alternative minimum taxable income. Certain payments of alternative minimum tax may be used as credits against regular tax liabilities in future years. Pacific Trust Bank has not been subject to the alternative minimum tax, nor do we have any such amounts available as credits for carryover.

**Net Operating Loss Carryovers.** A financial institution may carryback net operating losses to the preceding two taxable years and forward to the succeeding 20 taxable years. This provision applies to losses incurred in taxable years beginning after August 6, 1997. At December 31, 2001, Pacific Trust Bank had no net operating loss carryforwards for federal income tax purposes.

**Corporate Dividends-Received Deduction.** First PacTrust Bancorp, Inc. may eliminate from its income dividends received from Pacific Trust Bank as a wholly owned subsidiary of First PacTrust Bancorp, Inc. if it elects to file a consolidated return with Pacific Trust Bank. The corporate dividends-received deduction is 100% or 80%, in the case of dividends received from corporations with which a corporate recipient does not file a consolidated tax return, depending on the level of stock ownership of the payor of the dividend. Corporations which own less than 20% of the stock of a corporation distributing a dividend may deduct 70% of dividends received or accrued on their behalf.

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### State Taxation

Pacific Trust Bancorp, Inc. and Pacific Trust Bank will be subject to the California corporate franchise (income) tax which is assessed at the rate of 10.84%. For this purpose, California taxable income generally means federal taxable income subject to certain modifications provided for in California law.

## RESTRICTIONS ON ACQUISITION OF FIRST PACTRUST BANCORP, INC. AND PACIFIC TRUST BANK

The principal federal regulatory restrictions which affect the ability of any person, firm or entity to acquire First PacTrust Bancorp, Inc., Pacific Trust Bank or their respective capital stock are described below. Also discussed are certain provisions in First PacTrust Bancorp, Inc.'s charter and bylaws which may be deemed to affect the ability of a person, firm or entity to acquire First PacTrust Bancorp, Inc.

## Federal Law

The Change in Bank Control Act provides that no person, acting directly or indirectly or through or in concert with one or more other persons, may acquire control of a savings institution unless the Office of Thrift Supervision has been given 60 days prior written notice. The Home Owners' Loan Act provides that no company may acquire "control" of a savings institution without the prior approval of the Office of Thrift Supervision. Any company that acquires such control becomes a savings and loan holding company subject to registration, examination and regulation by the Office of Thrift Supervision. Pursuant to federal regulations, control of a savings institution is conclusively deemed to have been acquired by, among other things, the acquisition of more than 25% of any class of voting stock of the institution or the ability to control the election of a majority of the directors of an institution. Moreover, control is presumed to have been acquired, subject to rebuttal, upon the acquisition of more than 10% of any class of voting stock, or of more than 25% of any class of stock of a savings institution, where certain enumerated "control factors" are also present in the acquisition. The Office of Thrift Supervision may prohibit an acquisition of control if:

- it would result in a monopoly or substantially lessen competition;
- the financial condition of the acquiring person might jeopardize the financial stability of the institution; or
- the competence, experience or integrity of the acquiring person indicates that it would not be in the interest of the depositors or of the public to permit the acquisition of control by such person.

These restrictions do not apply to the acquisition of a savings institution's capital stock by one or more tax-qualified employee stock benefit plans, provided that the plans do not have beneficial ownership of more than 25% of any class of equity security of the savings institution.

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For a period of three years following completion of the conversion, Office of Thrift Supervision regulations generally prohibit any person from acquiring or making an offer to acquire beneficial ownership of more than 10% of the stock of First PacTrust Bancorp, Inc. or Pacific Trust Bank without Office of Thrift Supervision approval.

### **Charter and Bylaws of First PacTrust Bancorp, Inc.**

The following discussion is a summary of certain provisions of the charter and bylaws of First PacTrust Bancorp, Inc. that relate to corporate governance. The description is necessarily general and qualified by reference to the charter and bylaws.

**Directors.** Certain provisions of First PacTrust Bancorp, Inc.'s charter and bylaws will impede changes in majority control of the board of directors. First PacTrust Bancorp, Inc.'s charter provides that the board of directors will be divided into three classes, with directors in each class elected for three-year staggered terms except for the initial directors. Thus, assuming a board of three directors or more, it would take two annual elections to replace a majority of First PacTrust Bancorp, Inc.'s board. First PacTrust Bancorp, Inc.'s charter also provides that the size of the board of directors may be increased or decreased only by a majority vote of the whole board or by a vote of 80% of the shares eligible to be voted at a duly constituted meeting of stockholders called for such purpose. The bylaws also provide that any vacancy occurring in the board of directors, including a vacancy created by an increase in the number of directors, shall be filled for the remainder of the unexpired term by a majority vote of the directors then in office. Finally, the bylaws impose certain notice and information requirements in connection with the nomination by stockholders of candidates for election to the board of directors or the proposal by stockholders of business to be acted upon at an annual meeting of stockholders.

The charter provides that a director may only be removed for cause by the affirmative vote of 80% of the shares eligible to vote.

**Restrictions on Call of Special Meetings.** The charter of First PacTrust Bancorp, Inc. provides that a special meeting of stockholders may be called only through a resolution of the board of directors and only for business as directed by the board or through a written request of stockholders entitled to cast at least a majority of all the votes entitled to be cast at the meeting.

**Absence of Cumulative Voting.** First PacTrust Bancorp, Inc.'s charter does not provide for cumulative voting rights in the election of directors.

**Authorization of Preferred Stock.** The charter of First PacTrust Bancorp, Inc. authorizes five million shares of serial preferred stock, \$.01 par value. First PacTrust Bancorp, Inc. is authorized to issue preferred stock from time to time in one or more series subject to applicable provisions of law, and the board of directors is authorized to fix the designations, powers, preferences and relative participating, optional and other special rights of such shares, including voting rights, which could be multiple or as a separate class, and conversion rights. In the event of a proposed merger, tender offer or other attempt to gain control of First PacTrust Bancorp, Inc. that the board of directors does not approve, it might be possible for the board of directors to authorize the issuance of a series of preferred stock with rights and preferences that would impede the completion of such a transaction. If First PacTrust Bancorp, Inc. issued any preferred stock which disparately reduced the voting rights of the common stock, the common stock could be required to be delisted from the Nasdaq System. An effect of the possible issuance of preferred stock, therefore, may

be to deter a future takeover attempt. The board of directors has no present plans or understandings for the issuance of any preferred stock and does not intend to issue any preferred stock except on terms which the board deems to be in the best interests of First PacTrust Bancorp, Inc. and its stockholders.

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**Classification of Capital Stock.** In addition, First PacTrust Bancorp, Inc.'s charter authorizes the board of directors to classify or reclassify any unissued shares of capital stock into one or more classes or series of stock by setting or changing in one or more respects the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends, qualifications or terms and conditions of redemption of such shares. Thus, for example, the board of directors may reclassify any number of unissued shares of common stock as preferred stock without obtaining stockholder approval. The charter also provides by its terms that it may be amended by action of the board of directors without a stockholder vote to change the number of shares of authorized capital stock. No shares of First PacTrust Bancorp, Inc. preferred stock will be outstanding immediately after the conversion.

**Limitation on Voting Rights.** The charter of First PacTrust Bancorp, Inc. provides that in no event shall any record owner of any outstanding common stock which is beneficially owned, directly or indirectly, by a person who beneficially owns more than 10% of the then outstanding shares of common stock, be entitled or permitted to any vote in respect of the shares held in excess of the 10% limit. This limitation would not stop any person from soliciting or voting proxies from other beneficial owners for more than 10% of the common stock. This includes shares beneficially owned by any affiliate of a person, shares which a person or his affiliates have the right to acquire upon the exercise of conversion rights or options and shares as to which a person and his affiliates have or share investment or voting power, but shall not include shares beneficially owned by directors, officers and employees of Pacific Trust Bank or First PacTrust Bancorp, Inc. This provision will be enforced by the board of directors to limit the voting rights of persons beneficially owning more than 10% of the stock and thus could be utilized in a proxy contest or other solicitation to defeat a proposal that is desired by a majority of the stockholders.

**Procedures for Business Combinations.** First PacTrust Bancorp, Inc.'s charter requires that business combinations, including transactions initiated by management, between First PacTrust Bancorp, Inc., or any majority-owned subsidiary thereof, and a 10% or more stockholder either (i) be approved by at least 80% of the total number of outstanding voting shares, voting as a single class, of First PacTrust Bancorp, Inc. or (ii) involve consideration per share generally equal to that paid by the 10% stockholder when it acquired its block of stock. To the extent that a business combination is approved by a majority of the disinterested directors on the board, such business combination may only require approval of a majority of the total number of outstanding voting shares, voting as a single class, of First PacTrust Bancorp, Inc.

It should be noted that, since the board and management intend to purchase approximately \$3.7 million of the shares offered in the conversion and may control the voting of additional shares through the employee stock ownership plan and proposed restricted stock plan and stock option plan, the board and management may be able to block the approval of combinations requiring an 80% vote even where a majority of the stockholders vote to approve such combinations.

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**Evaluation of Certain Offers.** First PacTrust Bancorp, Inc.'s charter provides that the board of directors, when evaluating any offer to merge with or acquire all of the assets of First PacTrust Bancorp, Inc., may give due consideration to all relevant factors, including, but not limited to:

- (1) the social and economic effect of acceptance of such offer on First PacTrust Bancorp, Inc.'s present and future customers and employees, as well as those of Pacific Trust Bank and the communities its serves;
- (2) whether the proposal is acceptable based on the historical, current or projected future operating results or financial condition of First PacTrust Bancorp, Inc.;
- (3) whether a more favorable price could be obtained for First PacTrust Bancorp, Inc.'s stock or other securities in the future; and
- (4) the reputation and business practices of the other entity to be involved in the transaction and its management and affiliates as they would affect the employees of First PacTrust Bancorp, Inc. and its subsidiaries.

**Amendments to the Charter and Bylaws.** Amendments to First PacTrust Bancorp, Inc.'s charter must be approved by First PacTrust Bancorp, Inc.'s board of directors and also by a majority of the outstanding shares of First PacTrust Bancorp, Inc.'s voting stock; provided, however, that approval by at least 80% of the outstanding voting stock is generally required for amendment of certain provisions, including provisions relating to number, classification, election and removal of directors; amendment of bylaws;

call of special stockholder meetings; offers to acquire and acquisitions of control; certain business combinations; power of indemnification; and amendments to provisions relating to the foregoing in the charter.

The bylaws may be amended by a majority vote of the board of directors or the affirmative vote of at least 80% of the total votes eligible to be voted at a duly constituted meeting of stockholders.

***Purpose and Takeover Defensive Effects of First PacTrust Bancorp, Inc.'s Charter and Bylaws.*** We believe that the provisions described above are prudent and will reduce First PacTrust Bancorp, Inc.'s vulnerability to takeover attempts and other transactions which have not been negotiated with and approved by its board of directors. These provisions will also assist us in the orderly deployment of the conversion proceeds into productive assets during the initial period after the conversion. We believe these provisions are in the best interest of Pacific Trust Bank and of First PacTrust Bancorp, Inc. First PacTrust Bancorp, Inc.'s board will be in the best position to determine the true value of First PacTrust Bancorp, Inc. and to negotiate more effectively for what may be in the best interests of our stockholders. Accordingly, we believe that it is in the best interests of First PacTrust Bancorp, Inc. and its stockholders to encourage potential acquirors to negotiate directly with the board of directors of First PacTrust Bancorp, Inc. and that these provisions will encourage such negotiations and discourage hostile takeover attempts. It is also our view that these provisions should not discourage persons from proposing a merger or other transaction at prices reflective of the true value of First PacTrust Bancorp, Inc. and which is in the best interests of all stockholders.

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Attempts to take over financial institutions and their holding companies recently have recently become increasingly common. Takeover attempts which have not been negotiated with and approved by the board of directors present to stockholders the risk of a takeover on terms which may be less favorable than might otherwise be available. A transaction which is negotiated and approved by the board of directors, on the other hand, can be carefully planned and undertaken at an opportune time in order to obtain maximum value for First PacTrust Bancorp, Inc. and its stockholders, with due consideration given to matters such as the management and business of the acquiring corporation and maximum strategic development of First PacTrust Bancorp, Inc.'s assets.

An unsolicited takeover proposal can seriously disrupt the business and management of a corporation and cause it great expense. Although a tender offer or other takeover attempt may be made at a price substantially above then current market prices, these offers are sometimes made for less than all of the outstanding shares of a target company. As a result, stockholders may be presented with the alternative of partially liquidating their investment at a time that may be disadvantageous, or retaining their investment in an enterprise which is under different management and whose objectives may not be similar to those of the remaining stockholders. The concentration of control, which could result from a tender offer or other takeover attempt, could result in First PacTrust Bancorp, Inc. no longer being a reporting company with the SEC and therefore deprive First PacTrust Bancorp, Inc.'s remaining stockholders of the benefits of the disclosure requirements of the Federal securities laws.

Despite our belief as to the benefits to stockholders of these provisions of First PacTrust Bancorp, Inc.'s charter and bylaws, these provisions may also have the effect of discouraging a future takeover attempt which would not be approved by First PacTrust Bancorp, Inc.'s board, but pursuant to which stockholders may receive a substantial premium for their shares over then current market prices. As a result, stockholders who might desire to participate in such a transaction may not have any opportunity to do so. These provisions will also render the removal of First PacTrust Bancorp, Inc.'s board of directors and of management more difficult. First PacTrust Bancorp, Inc. will enforce the voting limitation provisions of the charter in proxy solicitations and accordingly could utilize these provisions to defeat proposals that are favored by a majority of the stockholders. We, however, have concluded that the potential benefits outweigh the possible disadvantages.

Pursuant to applicable law, at any annual or special meeting of its stockholders after the conversion, First PacTrust Bancorp, Inc. may adopt additional charter provisions regarding the acquisition of its equity securities that would be permitted to a Maryland corporation. First PacTrust Bancorp, Inc. does not presently intend to propose the adoption of further restrictions on the acquisition of First PacTrust Bancorp, Inc.'s equity securities.

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## **Benefit Plans**

In addition to the provisions of First PacTrust Bancorp, Inc.'s charter and bylaws described above, benefit plans of First PacTrust Bancorp, Inc. and Pacific Trust Bank intended to be adopted after completion of this offering contain provisions which also may discourage hostile takeover attempts which the board of directors of Pacific Trust Bank might conclude are not in the best interests of First PacTrust Bancorp, Inc., First PacTrust Bancorp, Inc. and Pacific Trust Bank or First PacTrust Bancorp, Inc.'s stockholders. For a description of the benefit plans and the provisions of these plans relating to changes in control of First PacTrust Bancorp, Inc. or Pacific Trust Bank, see "Management - Benefits."

# DESCRIPTION OF CAPITAL STOCK OF FIRST PACTRUST BANCORP, INC.

## General

First PacTrust Bancorp, Inc. is authorized to issue 20 million shares of common stock having a par value of \$0.01 per share and five million shares of preferred stock having a par value of \$0.01 per share. First PacTrust Bancorp, Inc. currently expects to issue up to a maximum of 3,565,000 shares of common stock, or 4,099,750 shares in the event that the maximum of the estimated offering range is increased by 15%, and no shares of preferred stock in the conversion. Each share of First PacTrust Bancorp, Inc.'s common stock will have the same relative rights as, and will be identical in all respects with, each other share of common stock. Upon payment of the purchase price for the common stock in accordance with the plan of conversion, all of the stock will be duly authorized, fully paid and nonassessable. Presented below is a description of all aspects of First PacTrust Bancorp, Inc.'s capital stock which are deemed material to an investment decision with respect to the conversion.

The common stock of First PacTrust Bancorp, Inc. will represent nonwithdrawable capital, will not be an account of an insurable type, and will not be insured by the FDIC.

## Common Stock

**Distributions.** First PacTrust Bancorp, Inc. can pay dividends if, as and when declared by its board of directors, subject to compliance with limitations which are imposed by law. The holders of common stock of First PacTrust Bancorp, Inc. will be entitled to receive and share equally in these dividends as they may be declared by the board of directors of First PacTrust Bancorp, Inc. out of funds legally available for such purpose. If First PacTrust Bancorp, Inc. issues preferred stock, the holders of such preferred stock may have a priority over the holders of the common stock with respect to dividends. See "Our Policy Regarding Dividends."

**Voting Rights.** Upon the effective date of the conversion, the holders of common stock of First PacTrust Bancorp, Inc. will possess exclusive voting rights in First PacTrust Bancorp, Inc. Each holder of common stock will be entitled to one vote per share and will not have any right to cumulate votes in the election of directors, therefore, directors will be elected by a plurality of the shares actually voting on the matter. Under certain circumstances, shares in excess of 10% of the issued and outstanding shares of common stock may be considered "excess shares" and, accordingly, not be entitled to vote. See "Restrictions on Acquisition of First PacTrust Bancorp, Inc. and Pacific Trust Bank." If First PacTrust Bancorp, Inc. issues preferred stock, holders of the preferred stock may also possess voting rights.

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**Liquidation.** In the event of any liquidation, dissolution or winding up of Pacific Trust Bank, First PacTrust Bancorp, Inc., as holder of Pacific Trust Bank's capital stock, would be entitled to receive, after payment or provision for payment of all debts and liabilities of Pacific Trust Bank, including all deposit accounts and accrued interest thereon, all assets of Pacific Trust Bank available for distribution. In the event of liquidation, dissolution or winding up of First PacTrust Bancorp, Inc., the holders of its common stock would be entitled to receive, after payment or provision for payment of all its debts and liabilities, all of the assets of First PacTrust Bancorp, Inc. available for distribution. If preferred stock is issued, the holders thereof may have a priority over the holders of the common stock in the event of liquidation or dissolution.

**Rights to Buy Additional Shares.** Holders of the common stock of First PacTrust Bancorp, Inc. will not be entitled to preemptive rights with respect to any shares which may be issued. Preemptive rights are the priority right to buy additional shares if First PacTrust Bancorp, Inc. issues more shares in the future. Therefore, if additional shares are issued by First PacTrust Bancorp, Inc. without the opportunity for existing stockholders to purchase more shares, a stockholder's ownership interest in the Company may be subject to dilution. The common stock is not subject to redemption.

## Preferred Stock

None of the shares of First PacTrust Bancorp, Inc.'s authorized preferred stock will be issued in the conversion. This stock may be issued with preferences and designations as the board of directors may from time to time determine. The board of directors can, without stockholder approval, issue preferred stock with voting, dividend, liquidation and conversion rights which could dilute the voting strength of the holders of the common stock and may assist management in impeding an unfriendly takeover or attempted change in control. First PacTrust Bancorp, Inc. has no present plans to issue preferred stock. If preferred stock is issued in the future, First PacTrust Bancorp, Inc. will not offer preferred stock to promoters except on the same terms as it is offered to all other existing stockholders or to new stockholders; or the issuance will be approved by a majority of First PacTrust Bancorp, Inc.'s independent directors who do not have an interest in the transaction and who have access, at First PacTrust Bancorp, Inc.'s expense, to its or independent legal counsel.

## TRANSFER AGENT AND REGISTRAR

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## EXPERTS

Our consolidated financial statements at December 31, 2001 and 2000 and for the three years ended December 31, 2001 included in this prospectus have been audited by Crowe, Chizek and Company LLP, independent auditors, as set forth in their report thereon appearing elsewhere herein and in the registration statement, and are included in reliance upon the report of this firm given upon the authority as experts in accounting and auditing.

RP Financial has consented to the publication herein of the summary of its report to Pacific Trust Bank setting forth its opinion as to the estimated pro forma market value of the common stock upon conversion and its letter with respect to subscription rights.

## LEGAL AND TAX OPINIONS

The legality of the common stock and the federal income tax consequences of the conversion have been passed upon for Pacific Trust Bank by Silver, Freedman & Taff, L.L.P., Washington, D.C., special counsel to Pacific Trust Bank and First PacTrust Bancorp, Inc. The California income tax consequences of the conversion have been passed upon for Pacific Trust Bank by Crowe, Chizek and Company LLP, Oak Brook, Illinois. Certain legal matters will be passed upon for Keefe, Bruyette & Woods by Jenkins & Gilchrist, a Professional Corporation, Washington D.C.

## ADDITIONAL INFORMATION

First PacTrust Bancorp, Inc. has filed with the SEC a registration statement under the Securities Act of 1933 with respect to the common stock offered hereby. As permitted by the rules and regulations of the SEC, this prospectus does not contain all the information set forth in the registration statement. This information, including the appraisal report which is an exhibit to the registration statement, can be examined without charge at the public reference facilities of the SEC located at 450 Fifth Street, N.W., Washington, D.C. 20549, and copies of this material can be obtained from the SEC at prescribed rates. In addition, the SEC maintains a web site (<http://www.sec.gov>) that contains reports, proxy and information statements and other information regarding registrants that file electronically with the SEC, including First PacTrust Bancorp, Inc. The statements contained in this prospectus as to the contents of any contract or other document filed as an exhibit to the registration statement are, of necessity, brief descriptions thereof and are not necessarily complete; each statement is qualified by reference to the contract or document. Pacific Trust Bank also maintains a website (<http://www.pacifictrustbank.com>) which contains various information about Pacific Trust Bank.

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Pacific Trust Bank has filed an Application for Conversion and a Holding Company Application on Form H-(e)1s with the Office of Thrift Supervision with respect to the conversion. This prospectus omits certain information contained in those applications. The applications may be examined at the principal office of the Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and at the West Regional Office of the Office of Thrift Supervision located at Pacific Plaza, 2001 Junipero Serra Boulevard, Suite 650, Daly City, California 94014-1976.

In connection with the conversion, First PacTrust Bancorp, Inc. has registered its common stock with the SEC under Section 12 of the Securities Exchange Act of 1934, and, upon such registration, First PacTrust Bancorp, Inc. and the holders of its stock will become subject to the proxy solicitation rules, reporting requirements and restrictions on stock purchases and sales by directors, officers and greater than 10% stockholders, the annual and periodic reporting and certain other requirements of the Securities Exchange Act of 1934. Under the plan of conversion, First PacTrust Bancorp, Inc. has undertaken that it will not terminate this registration for a period of at least three years following the conversion.

A copy of the plan of conversion, the charter and bylaws of First PacTrust Bancorp, Inc. and Pacific Trust Bank are available without charge from Pacific Trust Bank. Requests for such information should be directed to: Stockholder Relations, Pacific Trust Bank, 610 Bay Boulevard, Chula Vista, California 91910.

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All schedules are omitted because the required information is not applicable or is included in the Consolidated Financial Statements and related Notes.

The financial statements of First PacTrust Bancorp, Inc. have been omitted because First PacTrust Bancorp, Inc. has not yet issued any stock, has no assets or liabilities, and has not conducted any business other than that of an organizational nature.

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## REPORT OF INDEPENDENT AUDITORS

Board of Directors  
Pacific Trust Bank  
Chula Vista, California

We have audited the accompanying consolidated statements of financial condition of Pacific Trust Bank as of December 31, 2001 and 2000 and the related consolidated statements of income, equity, and cash flows for each of the three years in the period ended December 31, 2001. These financial statements are the responsibility of the Bank's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Pacific Trust Bank as of December 31, 2001 and 2000 and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2001, in conformity with accounting principles generally accepted in the United States of America.

Crowe, Chizek and Company LLP

Oak Brook, Illinois  
January 12, 2002

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|                                                                                        | 2001          | 2000          |
|----------------------------------------------------------------------------------------|---------------|---------------|
| <b>ASSETS</b>                                                                          |               |               |
| Cash and due from banks                                                                | \$ 5,227,563  | \$ 6,714,024  |
| Federal funds sold                                                                     | 10,150,000    | -             |
| Interest bearing deposits                                                              | 2,625,176     | 985,460       |
| Total cash and cash equivalents                                                        | 18,002,739    | 7,699,484     |
| Securities available-for-sale                                                          | 13,660,542    | 40,947,600    |
| Other investments                                                                      | -             | 824,500       |
| Federal Home Loan Bank stock, at cost                                                  | 2,508,600     | 2,705,000     |
| Loans, net of allowance for loan losses of \$1,742,558 in 2001 and \$1,699,385 in 2000 | 257,215,870   | 234,301,008   |
| Accrued interest receivable                                                            | 1,459,770     | 1,596,098     |
| Premises and equipment, net                                                            | 3,863,234     | 3,632,226     |
| Servicing agent receivable                                                             | 11,687,133    | 7,922,902     |
| Other assets                                                                           | 1,677,754     | 717,960       |
| Total assets                                                                           | \$310,075,642 | \$300,346,778 |
| <b>LIABILITIES AND EQUITY</b>                                                          |               |               |
| Deposits:                                                                              |               |               |
| Non-interest-bearing                                                                   | \$ 4,000,940  | \$ 4,024,227  |
| Interest-bearing                                                                       | 247,952,950   | 214,670,426   |
| Total deposits                                                                         | 251,953,890   | 218,694,653   |
| Advances from Federal Home Loan Bank                                                   | 28,000,000    | 53,800,000    |
| Accrued expenses and other liabilities                                                 | 1,401,237     | 1,395,625     |
| Total liabilities                                                                      | 281,355,127   | 273,890,278   |
| Commitments and contingencies                                                          |               |               |
| Equity:                                                                                |               |               |
| Retained earnings                                                                      | 28,669,004    | 26,572,749    |
| Accumulated other comprehensive income (loss)                                          | 51,511        | (116,249)     |
| Total equity                                                                           | 28,720,515    | 26,456,500    |
| Total liabilities and equity                                                           | \$310,075,642 | \$300,346,778 |

See accompanying notes to consolidated financial statements.

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PACIFIC TRUST BANK  
CONSOLIDATED STATEMENTS OF INCOME  
Years ended December 31, 2001, 2000, and 1999

|                                    | 2001         | 2000         | 1999         |
|------------------------------------|--------------|--------------|--------------|
| Interest and dividend income       |              |              |              |
| Loans, including fees              | \$19,987,233 | \$15,315,953 | \$11,513,016 |
| Securities                         | 1,378,118    | 2,991,693    | 3,219,338    |
| Other interest-earning assets      | 456,996      | 388,471      | 1,223,093    |
| Total interest and dividend income | 21,822,347   | 18,696,117   | 15,955,447   |
| Interest expense                   |              |              |              |
| Savings                            | 896,354      | 1,083,452    | 1,061,150    |
| Checking and money market          | 2,035,477    | 2,454,693    | 1,629,507    |

|                                                            |             |             |             |
|------------------------------------------------------------|-------------|-------------|-------------|
| Certificates of deposit                                    | 6,001,348   | 5,588,736   | 4,953,895   |
| Federal Home Loan Bank advances                            | 2,640,172   | 1,188,412   | -           |
| Total interest expense                                     | 11,573,351  | 10,315,293  | 7,644,552   |
| <b>Net interest income</b>                                 | 10,248,996  | 8,380,824   | 8,310,895   |
| Provision for loan losses                                  | 67,718      | 444,058     | 92,000      |
| <b>Net interest income after provision for loan losses</b> | 10,181,278  | 7,936,766   | 8,218,895   |
| Noninterest income                                         |             |             |             |
| Customer service fees                                      | 961,941     | 982,021     | 947,897     |
| Loan servicing fees                                        | 4,361       | 88,475      | 69,049      |
| Net loss on sales of securities available-for-sale         | (55,131)    | (125,010)   | -           |
| Other                                                      | 119,928     | 141,663     | 133,241     |
| Total noninterest income                                   | 1,031,099   | 1,087,149   | 1,150,187   |
| Noninterest expense                                        |             |             |             |
| Salaries and employee benefits                             | 3,366,640   | 3,057,695   | 3,054,781   |
| Occupancy and equipment                                    | 1,741,460   | 1,780,530   | 1,690,706   |
| Advertising                                                | 282,119     | 191,762     | 64,897      |
| Professional fees                                          | 233,466     | 158,678     | 173,222     |
| Stationary, supplies and postage                           | 303,284     | 460,794     | 364,625     |
| Data processing                                            | 474,184     | 198,771     | 231,461     |
| ATM costs                                                  | 374,207     | 402,616     | 335,789     |
| Other general and administrative                           | 828,566     | 729,936     | 642,835     |
| Total noninterest expense                                  | 7,603,926   | 6,980,782   | 6,558,316   |
| <b>Income before income taxes</b>                          | 3,608,451   | 2,043,133   | 2,810,766   |
| Income tax expense                                         | 1,512,196   | 300,351     | -           |
| <b>Net income</b>                                          | \$2,096,255 | \$1,742,782 | \$2,810,766 |

See accompanying notes to consolidated financial statements.

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PACIFIC TRUST BANK  
CONSOLIDATED STATEMENTS OF EQUITY  
Years ended December 31, 2001, 2000, and 1999

|                                                                   | Regular<br>Reserve | Undivided<br>Earnings | Retained<br>Earnings | Accumulated<br>Other<br>Comprehensive<br>Income (Loss) | Total        |
|-------------------------------------------------------------------|--------------------|-----------------------|----------------------|--------------------------------------------------------|--------------|
| Balance at January 1, 1999                                        | \$5,211,357        | \$16,807,844          | \$ -                 | \$ (75,578)                                            | \$21,943,623 |
| Transfers, net                                                    | 566,455            | (566,455)             | -                    | -                                                      | -            |
| Comprehensive income:                                             |                    |                       |                      |                                                        |              |
| Net income                                                        | -                  | 2,810,766             | -                    | -                                                      | 2,810,766    |
| Change in net unrealized loss on securities<br>available-for-sale | -                  | -                     | -                    | (721,860)                                              | (721,860)    |
| Total comprehensive income                                        |                    |                       |                      |                                                        | 2,088,906    |
| Balance at December 31, 1999                                      | 5,777,812          | 19,052,155            | -                    | (797,438)                                              | 24,032,529   |
| Conversion to thrift charter on January 1, 2000                   | (5,777,812)        | (19,052,155)          | 24,829,967           | -                                                      | -            |
| Comprehensive income:                                             |                    |                       |                      |                                                        |              |
| Net income                                                        | -                  | -                     | 1,742,782            | -                                                      | 1,742,782    |
| Change in net unrealized gain on securities                       |                    |                       |                      |                                                        |              |

|                                                             |      |      |              |           |              |
|-------------------------------------------------------------|------|------|--------------|-----------|--------------|
| available-for-sale, net of reclassification and tax effects | -    | -    | -            | 681,189   | 681,189      |
| Total comprehensive income                                  |      |      |              |           | 2,423,971    |
| Balance at December 31, 2000                                | -    | -    | 26,572,749   | (116,249) | 26,456,500   |
| Comprehensive income:                                       |      |      |              |           |              |
| Net income                                                  | -    | -    | 2,096,255    | -         | 2,096,255    |
| Change in net unrealized gain on securities                 |      |      |              |           |              |
| available-for-sale, net of reclassification and tax effects | -    | -    | -            | 167,760   | 167,760      |
| Total comprehensive income                                  |      |      |              |           | 2,264,015    |
| Balance at December 31, 2001                                | \$ - | \$ - | \$28,669,004 | \$ 51,511 | \$28,720,515 |

See accompanying notes to consolidated financial statements.

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PACIFIC TRUST BANK  
CONSOLIDATED STATEMENTS OF CASH FLOWS  
Years ended December 31, 2001, 2000, and 1999

|                                                                                            | 2001         | 2000         | 1999         |
|--------------------------------------------------------------------------------------------|--------------|--------------|--------------|
| <b>Cash flows from operating activities</b>                                                |              |              |              |
| Net income                                                                                 | \$ 2,096,255 | \$ 1,742,782 | \$ 2,810,766 |
| Adjustments to reconcile net income to net cash provided by (used in) operating activities |              |              |              |
| Provision for loan losses                                                                  | 67,718       | 444,058      | 92,000       |
| Net amortization of securities                                                             | 128,900      | 149,985      | 196,468      |
| Amortization of deferred loan fees                                                         | (391,424)    | (467,227)    | (266,619)    |
| Depreciation and amortization                                                              | 445,285      | 486,098      | 495,929      |
| Realized loss on sales of securities available-for-sale, net                               | 55,131       | 125,010      | -            |
| Loss on disposal of premises and equipment                                                 | -            | 1,740        | 19,778       |
| Deferred income tax benefit                                                                | 30,267       | (238,089)    | -            |
| Gain on sale of loans                                                                      | -            | 2,990        | -            |
| FHLB stock dividends                                                                       | (166,000)    | (111,300)    | -            |
| Net change in:                                                                             |              |              |              |
| Accrued interest receivable                                                                | 136,328      | (507,737)    | (36,496)     |
| Other assets                                                                               | (1,107,366)  | 169,398      | 706,789      |
| Accrued expenses and other liabilities                                                     | 5,612        | 659,335      | 26,384       |
| Net cash provided by operating activities                                                  | 1,300,706    | 2,457,043    | 4,044,999    |
| <b>Cash flows from investing activities</b>                                                |              |              |              |
| Proceeds from sales of securities available-for-sale                                       | 12,258,567   | 10,856,567   | -            |
| Proceeds from maturities of securities available-for-sale                                  | 20,384,354   | 5,497,607    | 17,630,501   |
| Purchases of securities available-for-sale                                                 | (5,254,829)  | (980,625)    | (28,671,035) |
| Net decrease in other investments                                                          | 824,500      | -            | 5,000,000    |
| Loan originations and principal collections, net                                           | (26,355,387) | (94,852,926) | (5,069,057)  |
| Additions to premises and equipment                                                        | (676,293)    | (520,717)    | (301,810)    |
| Change in NCUSIF deposit                                                                   | -            | 1,897,887    | (31,338)     |
| Redemption of Federal Home Loan Bank stock                                                 | 362,400      | -            | -            |
| Increase in Federal Home Loan Bank stock                                                   | -            | (1,372,900)  | (1,220,800)  |
| Net cash provided by (used in) investing activities                                        | 1,543,312    | (79,475,107) | (12,663,539) |
| <b>Cash flows from financing activities</b>                                                |              |              |              |
| Net increase (decrease) in deposits                                                        | 33,259,237   | 17,754,378   | (5,614,361)  |
| Net change in Federal Home Loan Bank open line                                             | (28,800,000) | 28,800,000   | -            |
| Repayments of Federal Home Loan Bank advances                                              | (20,000,000) | -            | -            |
| Proceeds from Federal Home Loan Bank advances                                              | 23,000,000   | 25,000,000   | -            |

|                                                     |                     |                    |                     |
|-----------------------------------------------------|---------------------|--------------------|---------------------|
| Net cash provided by (used in) financing activities | 7,459,237           | 71,554,378         | (5,614,361)         |
| Net change in cash and cash equivalents             | 10,303,255          | (5,463,686)        | (14,232,901)        |
| Cash and cash equivalents at beginning of year      | 7,699,484           | 13,163,170         | 27,396,071          |
| <b>Cash and cash equivalents at end of year</b>     | <b>\$18,002,739</b> | <b>\$7,699,484</b> | <b>\$13,163,170</b> |
| Supplemental cash flow information                  |                     |                    |                     |
| Interest paid on deposits and borrowed funds        | \$11,690,459        | \$10,193,528       | \$ 7,641,104        |
| Income taxes paid                                   | 1,619,514           | 363,000            | -                   |
| Supplemental disclosure of noncash activities       |                     |                    |                     |
| Amount due from servicing agent                     | 11,687,133          | 7,922,902          | 1,271,007           |

See accompanying notes to consolidated financial statements.

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PACIFIC TRUST BANK  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2001, 2000, and 1999

**NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

Principles of Consolidation: The accompanying consolidated financial statements include the accounts of Pacific Trust Bank (the Bank) and its wholly owned subsidiary, Alternate Insurance Services, Inc. All significant intercompany transactions and balances are eliminated in consolidation. Alternate Insurance Services, Inc. was dissolved during 2000.

On January 1, 2000, Pacific Trust Federal Credit Union converted to a federal mutual savings bank and changed its name to Pacific Trust Bank. As a result of the conversion, the Bank is subject to regulation and examination by the Office of Thrift Supervision (OTS), its primary regulator.

Credit unions are required by regulation to maintain a statutory reserve. This reserve, which represents a regulatory restriction of members' equity, is not available for the payment of interests to members. Upon conversion to a thrift charter, the statutory reserve and the undivided earnings were transferred to retained earnings.

Nature of Operations: The Bank is a federally chartered mutual savings bank and member of the Federal Home Loan Bank (FHLB) system, which maintains insurance on deposit accounts with the Savings Association Insurance Fund (SAIF) of the Federal Deposit Insurance Corporation. The Bank is engaged in the business of retail banking, with operations conducted through its main office and five branches located in the San Diego and Riverside counties.

Use of Estimates in the Preparation of Financial Statements: The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of income and expenses during the reporting period. Actual results could differ from those estimates. The collectibility of loans, fair value of financial instruments, and status of contingencies are particularly subject to change.

Securities: Securities are classified as held-to-maturity when the Bank has the positive intent and ability to hold those securities to maturity. Accordingly, they are stated at cost, adjusted for amortization of premiums and accretion of discounts. All other securities are classified as available-for-sale since the Bank may decide to sell those securities in response to changes in market interest rates, liquidity needs, changes in yields or alternative investments, and for other reasons. These securities are carried at fair value with unrealized gains and losses, net of taxes, reported in other comprehensive income. Realized gains and losses on disposition are based on the net proceeds and the adjusted carrying amounts of the securities sold, using the specific identification method.

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PACIFIC TRUST BANK  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2001, 2000, and 1999

## NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Loans: Loans that management has the intent and ability to hold for the foreseeable future or until maturity or payoffs are reported at the principal balance outstanding, net of unearned interest, deferred loan fees and costs, and an allowance for loan losses.

Interest income is reported on the interest method and includes amortization of net deferred loan fees and costs over the loan term. Interest income is not reported when full loan repayment is in doubt. Payments received on such loans are reported as principal reductions.

Allowance for Loan Losses: The allowance for loan losses is a valuation allowance for probable incurred credit losses, increased by the provision for loan losses and decreased by chargeoffs less recoveries. Management estimates the allowance balance required using past loan loss experience, peer group information, the nature and volume of the portfolio, information about specific borrower situations and estimated collateral values, economic conditions, and other factors. Allocations of the allowance may be made for specific loans, but the entire allowance is available for any loan that, in management's judgment, should be charged off. Loan losses are charged against the allowance when management believes that the uncollectibility of a loan balance is confirmed.

A loan is impaired when full payment under the loan terms is not expected. Impairment is evaluated in total for smaller-balance loans of similar nature such as residential mortgage and consumer loans, and on an individual loan basis for other loans. If a loan is impaired, a portion of the allowance is allocated so that the loan is reported net, at the present value of estimated future cash flow using the loan's existing rate or at the fair value of collateral if repayment is expected solely from the collateral.

Premises and Equipment: Premises and equipment are stated at cost less accumulated depreciation. Depreciation is computed using the straight-line method over the estimated useful lives of the respective premises and equipment. Maintenance and repairs are charged to expense as incurred, and improvements that extend the useful lives of assets are capitalized.

Servicing Agent Receivable: The Bank has contracted with a servicing agent to process payments and service a portion of the Bank's real estate loan portfolio. The servicing agent remits cash receipts within 15 days of the end of each month for loan payments received. These cash amounts are reflected as due from servicing agent on the consolidated statements of financial condition.

Income Taxes: The Bank records income tax expense based on the amount of taxes due on its tax return, plus deferred taxes computed on the expected future tax consequences of temporary differences between the carrying amounts and the tax bases of assets and liabilities, using

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(Continued)

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PACIFIC TRUST BANK  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2001, 2000, and 1999

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## NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

enacted tax rates. Prior to January 1, 2000, the Bank was chartered as a credit union and not subject to income taxes.

Statement of Cash Flows: Cash and cash equivalents include cash on hand, amounts due from banks, and daily federal funds sold. The Bank reports net cash flows for customer loan transactions and deposit transactions.

Comprehensive Income: Comprehensive income consists of net income and other comprehensive income. Other comprehensive income includes unrealized gains and losses on securities available-for-sale, which is also recognized as a separate component of equity.

Loss Contingencies: Loss contingencies, including claims and legal actions arising in the ordinary course of business, are recorded as liabilities when the likelihood of loss is probable and an amount or range of loss can be reasonably estimated. Management does not believe there now are such matters that will have a material effect on the financial statements.

## NOTE 2 - SECURITIES

The amortized cost and fair value of securities available-for-sale at December 31 follows:

| Amortized<br>Cost | Gross<br>Unrealized<br>Gains | Gross<br>Unrealized<br>Losses | Fair<br>Value |
|-------------------|------------------------------|-------------------------------|---------------|
|                   |                              |                               |               |

2001:

|                                     |               |          |             |              |
|-------------------------------------|---------------|----------|-------------|--------------|
| Collateralized mortgage obligations | \$13,573,012  | \$99,623 | \$ (12,093) | \$13,660,542 |
| Total securities available-for-sale | \$13,573,012  | \$99,623 | \$ (12,093) | \$13,660,542 |
| <u>2000:</u>                        |               |          |             |              |
| U.S. government and federal agency  | \$ 7,968,808  | \$17,659 | \$ (3,646)  | \$ 7,982,821 |
| Collateralized mortgage obligations | 21,050,894    | 29,108   | (145,347)   | 20,934,655   |
| Marketable equity securities        | 12,125,433    | -        | (95,309)    | 12,030,124   |
| Total securities available-for-sale | \$ 41,145,135 | \$46,767 | \$(244,302) | \$40,947,600 |

|                                   |                                     |              |
|-----------------------------------|-------------------------------------|--------------|
|                                   | For the years ended<br>December 31, |              |
|                                   | 2001                                | 2000         |
| Proceeds from sales of securities | \$12,258,567                        | \$10,856,567 |
| Gross realized losses             | 55,131                              | 125,010      |

There were no sales of securities in 1999.

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PACIFIC TRUST BANK  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2001, 2000, and 1999

**NOTE 2 - SECURITIES (Continued)**

Other Investments: At December 31, 2000, the Bank had a capital account in Western Corporate Federal Credit Union with a balance of \$824,500. The carrying amount of such investment is shown in the balance sheet at cost, which approximates fair value. This capital account was redeemed by the Bank on December 31, 2001.

**NOTE 3 - LOANS**

Loans receivable consist of the following:

|                                         |               |               |
|-----------------------------------------|---------------|---------------|
|                                         | 2001          | 2000          |
| One to-four family                      | \$185,391,513 | \$147,471,904 |
| Commercial real estate and multi-family | 47,352,917    | 56,894,846    |
| Construction loans                      | 2,520,531     | -             |
| Home equity loans                       | 12,562,964    | 15,866,569    |
| Consumer                                | 10,758,248    | 15,915,433    |
| Commercial                              | 303,008       | 173,818       |
| Total                                   | 258,889,181   | 236,322,570   |
| Less:                                   |               |               |
| Allowance for loan losses               | (1,742,558)   | (1,699,385)   |
| Net deferred loan costs (fees)          | 69,247        | (322,177)     |
| Loans receivable, net                   | \$257,215,870 | \$234,301,008 |

Activity in the allowance for loan losses is summarized as follows:

|                              |             |             |             |
|------------------------------|-------------|-------------|-------------|
|                              | 2001        | 2000        | 1999        |
| Balance at beginning of year | \$1,699,385 | \$1,296,095 | \$1,237,432 |
| Loans charged-off            | (181,745)   | (181,634)   | (234,120)   |

|                                            |             |             |             |
|--------------------------------------------|-------------|-------------|-------------|
| Recoveries of loans previously charged off | 157,200     | 140,866     | 200,783     |
| Provision for loan losses                  | 67,718      | 444,058     | 92,000      |
|                                            |             |             |             |
| Balance at end of year                     | \$1,742,558 | \$1,699,385 | \$1,296,095 |

There were no impaired loans in 2001 or 2000.

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PACIFIC TRUST BANK  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2001, 2000, and 1999

**NOTE 4 - PREMISES AND EQUIPMENT**

Premises and equipment are summarized as follows:

|                                                | 2001        | 2000        |
|------------------------------------------------|-------------|-------------|
| Land and improvements                          | \$1,055,812 | \$1,055,812 |
| Buildings                                      | 2,926,430   | 2,947,290   |
| Furniture, fixtures, and equipment             | 4,216,857   | 4,245,605   |
| Construction in process                        | 269,417     | 110,088     |
| Total                                          | 8,468,516   | 8,358,795   |
| Less accumulated depreciation and amortization | (4,605,282) | (4,726,569) |
| Premises and equipment, net                    | \$3,863,234 | \$3,632,226 |

Pursuant to the terms of noncancelable lease agreements in effect at December 31, 2001, pertaining to banking premises and equipment, future minimum rent commitments under various operating leases are as follows:

|       |           |
|-------|-----------|
| 2002  | \$ 94,087 |
| 2003  | 96,440    |
| 2004  | 98,851    |
| Total | \$289,378 |

The leases contain options to extend for periods from one to four years. The cost of such rentals is not included above. Total rent expense for the years ended December 31, 2001, 2000, and 1999 amounted to \$176,477, \$173,145, and \$178,694, respectively. The lease for the Temecula branch expired on December 31, 2001. The Bank has entered into an agreement to purchase a branch location in Temecula at a purchase price of \$1,362,500. This acquisition is expected to close in the first quarter of 2002. Until such time, the Bank will continue to lease the existing branch location and will operate under a month-to-month lease agreement.

**NOTE 5 - ACCRUED INTEREST RECEIVABLE**

Accrued interest receivable consists of the following at December 31:

|                               | 2001        | 2000        |
|-------------------------------|-------------|-------------|
| Loans                         | \$1,354,385 | \$1,357,678 |
| Securities                    | 72,296      | 202,218     |
| Other interest-earning assets | 33,089      | 36,202      |

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PACIFIC TRUST BANK  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2001, 2000, and 1999

**NOTE 6 - DEPOSITS**

Certificate of deposit accounts with balances of \$100,000 or more totaled approximately \$21,526,935 and \$13,229,643 at December 31, 2001 and 2000, respectively. Deposits greater than \$100,000 are not federally insured.

The scheduled maturities of time deposits at December 31, 2001 are as follows:

|       |               |
|-------|---------------|
| 2002  | \$98,224,103  |
| 2003  | 17,629,533    |
| 2004  | 3,379,100     |
| 2005  | 2,503,753     |
| 2006  | 1,262,981     |
|       | <hr/>         |
| Total | \$122,999,470 |
|       | <hr/>         |

**NOTE 7 - ADVANCES FROM FEDERAL HOME LOAN BANK**

At December 31, 2001, the interest rates on the Bank's advances from the FHLB ranged from 4.05% to 5.58%.

The contractual maturities of the Bank's advances from the FHLB are as follows:

|                      | 2001         | 2000         |
|----------------------|--------------|--------------|
|                      | <hr/>        | <hr/>        |
| Due in 2001          | \$ -         | \$20,000,000 |
| Due in 2002          | 6,000,000    | -            |
| Due in 2003          | 1,000,000    | -            |
| Due in 2004          | 14,000,000   | 5,000,000    |
| Due in 2005          | 7,000,000    | -            |
| Overnight borrowings | -            | 28,800,000   |
|                      | <hr/>        | <hr/>        |
| Total advances       | \$28,000,000 | \$53,800,000 |
|                      | <hr/>        | <hr/>        |

The Bank's advances from the FHLB were collateralized by certain real estate loans of an aggregate unpaid principal balance of approximately \$209,226,000, by certain mortgage-backed securities of approximately \$6,627,112, and the Bank's investment of capital stock of FHLB of San Francisco of \$2,508,600.

During 2001, the Bank repaid \$7,000,000 of advances and incurred a prepayment penalty of \$468,000, which is included in interest expense in the consolidated statement of income.

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## NOTE 8 - INCOME TAXES

On January 1, 2000, Pacific Trust Bank converted from a federally chartered credit union, which was not subject to federal or state income tax, to a federal mutual savings bank, subject to both federal and state income tax. In accordance with Statement of Financial Accounting Standards (SFAS) No. 109, the conversion of an entity from nontaxable to taxable status requires the recognition of deferred tax assets and liabilities for temporary differences existing at the time of conversion. As such, a net deferred tax asset of approximately \$456,000 was recognized, and the benefit from recognizing such asset reduced the income tax provision for 2000.

Allocation of federal and state income taxes between current and deferred portions is as follows:

|                        | 2001        | 2000      |
|------------------------|-------------|-----------|
| Current tax provision: |             |           |
| Federal                | \$1,077,922 | \$403,511 |
| State                  | 404,007     | 134,929   |
|                        | 1,481,929   | 538,440   |
| Deferred tax benefit:  |             |           |
| Federal                | 22,862      | 322,119   |
| State                  | 7,405       | (104,253) |
|                        | 30,267      | 217,866   |
| Change in tax status:  |             |           |
| Federal                | -           | (376,398) |
| State                  | -           | (79,557)  |
|                        | -           | (455,955) |
|                        | \$1,512,196 | \$300,351 |

The reasons for the differences between the statutory federal income tax rate and the effective tax rates are summarized as follows:

|                                                   | 2001  | 2000   |
|---------------------------------------------------|-------|--------|
| Statutory federal tax rate                        | 34.0% | 34.0%  |
| Increase (decrease) resulting from:               |       |        |
| State taxes, net of federal tax benefit           | 7.4   | 6.7    |
| Tax impact of conversion to a taxable corporation | -     | (24.0) |
| Other                                             | 0.5   | (2.0)  |
| Effective tax rates                               | 41.9% | 14.7%  |

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PACIFIC TRUST BANK  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2001, 2000, and 1999

## NOTE 8 - INCOME TAXES (Continued)

The components of the net deferred tax asset, included in other assets, are as follows:

| 2001 | 2000 |
|------|------|
|------|------|

|                                                  |           |           |
|--------------------------------------------------|-----------|-----------|
| Deferred tax assets:                             |           |           |
| Allowance for loan losses                        | \$343,310 | \$280,590 |
| Accrued bonus                                    | 116,418   | -         |
| Depreciation                                     | 196,099   | 196,099   |
| Unrealized loss on securities available-for-sale | -         | 81,286    |
| Section 475 mark-to-market adjustment            | 36,019    | -         |
| Other                                            | 37,864    | 17,864    |
|                                                  | <hr/>     | <hr/>     |
|                                                  | 729,710   | 575,839   |
| Deferred tax liabilities:                        |           |           |
| Deferred loan fees                               | (353,373) | (192,284) |
| FHLB stock dividends                             | (114,121) | (45,805)  |
| Unrealized gain on securities available-for-sale | (36,019)  | -         |
| Section 475 mark-to-market adjustment            | -         | (81,286)  |
|                                                  | <hr/>     | <hr/>     |
|                                                  | (503,513) | (319,375) |
|                                                  | <hr/>     | <hr/>     |
| Net deferred tax asset                           | \$226,197 | \$256,464 |
|                                                  | <hr/>     | <hr/>     |

## NOTE 9 - OFF-BALANCE-SHEET ACTIVITIES

**Credit-Related Financial Instruments:** The Bank is a party to credit related financial instruments with off-balance-sheet risk in the normal course of business to meet the financing needs of its customers. These financial instruments include commitments to extend credit, standby letters of credit and commercial letters of credit. Such commitments involve, to varying degrees, elements of credit and interest rate risk in excess of the amounts recognized in the consolidated balance sheets.

The Bank's exposure to credit loss is represented by the contractual amount of these commitments. The Bank follows the same credit policies in making commitments as it does for on-balance-sheet instruments.

(Continued)

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## PACIFIC TRUST BANK NOTES TO CONSOLIDATED FINANCIAL STATEMENTS December 31, 2001, 2000, and 1999

## NOTE 9 - OFF-BALANCE-SHEET ACTIVITIES (Continued)

|                                                                    | Contract Amount<br>December 31, |            |
|--------------------------------------------------------------------|---------------------------------|------------|
|                                                                    | 2001                            | 2000       |
| Financial instruments whose contract amounts represent credit risk |                                 |            |
| Commitments to purchase loans                                      | \$20,000,000                    | \$ -       |
| Commitments to extend credit including loans<br>in process         | 2,851,350                       | 4,130,500  |
| Unused lines of credit                                             | 19,281,302                      | 20,414,435 |
| Letters of credit                                                  | 34,000                          | 33,600     |

The Bank entered into an agreement to purchase a pool of \$20.0 million of one-to-four family residential loans from a third party on December 18, 2001 with a settlement date of January 18, 2002. The pool consists of 34 adjustable rate loans with an average balance of \$508,000. The average coupon rate for the pool of loans is 6.23% and the terms are for 30 years.

At December 31, 2001 and 2000, fixed rate commitments to extend credit, including loans in process, consisted of \$137,000 and \$25,000, respectively. The fixed rate commitments at December 31, 2001 are due to expire within 1 to 60 days of issuance and have rates ranging from 7.50% to 8.50%.

Financial instruments that potentially subject the Bank to concentrations of credit risk include interest-bearing deposit accounts in other financial institutions and loans. At December 31, 2001 and 2000, the Bank had deposit accounts with balances totaling

approximately \$95,158 and \$356,397, respectively, at the Federal Home Loan Bank of San Francisco.

## NOTE 10 - MINIMUM REGULATORY CAPITAL REQUIREMENTS

The Bank is subject to various regulatory capital requirements administered by the federal banking agencies. Failure to meet minimum capital requirements can initiate certain mandatory and possibly additional discretionary actions by regulators that, if undertaken, could have a direct material effect on the Bank's financial statements. Under capital adequacy guidelines and the regulatory framework for prompt corrective action, the Bank must meet specific capital guidelines that involve quantitative judgments of their assets, liabilities and certain off-balance-sheet items as calculated under regulatory accounting practices. The capital amounts and classifications are also subject to qualitative judgments by the regulators about components, risk weightings, and other factors.

(Continued)

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PACIFIC TRUST BANK  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2001, 2000, and 1999

## NOTE 10 - MINIMUM REGULATORY CAPITAL REQUIREMENTS (Continued)

Quantitative measures established by regulation to ensure capital adequacy require the Bank to maintain minimum amounts and ratios (set forth in the following table) of total and Tier 1 capital (as defined in the regulations) to risk-weighted assets (as defined) and of Tier 1 Capital (as defined) to average assets (as defined). Management believes, as of December 31, 2001, that the Bank met all capital adequacy requirements to which it is subject.

As of December 31, 2001, the most recent notification from the OTS, categorized the Bank as well capitalized under the regulatory framework for prompt corrective action. To be categorized as well capitalized, the Bank must maintain minimum total risk-based, Tier 1 risk-based, and Tier 1 leverage ratios as set forth in the following table. There are no conditions or events since the notification that management believes have changed the Bank's category. The Bank's actual capital amounts and ratios are presented in the table.

|                                                     | Actual   |        | Minimum Capital Requirements |       | Minimum Required to Be Well Capitalized Under Prompt Corrective Action Provisions |        |
|-----------------------------------------------------|----------|--------|------------------------------|-------|-----------------------------------------------------------------------------------|--------|
|                                                     | Amount   | Ratio  | Amount                       | Ratio | Amount                                                                            | Ratio  |
| (Dollars in Thousands)                              |          |        |                              |       |                                                                                   |        |
| <u>December 31, 2001</u>                            |          |        |                              |       |                                                                                   |        |
| Total capital (to risk-weighted assets)             | \$30,389 | 15.40% | \$15,789                     | 8.00% | \$19,736                                                                          | 10.00% |
| Tier 1 capital (to risk-weighted assets)            | 28,669   | 14.53  | 7,894                        | 4.00  | 11,841                                                                            | 6.00   |
| Tier 1 (core) capital (to adjusted tangible assets) | 28,669   | 9.24   | 12,413                       | 4.00  | 15,516                                                                            | 5.00   |
| <u>December 31, 2000</u>                            |          |        |                              |       |                                                                                   |        |
| Total capital (to risk-weighted assets)             | \$28,087 | 14.40% | \$15,601                     | 8.00% | \$19,501                                                                          | 10.00% |
| Tier 1 capital (to risk-weighted assets)            | 26,573   | 13.63  | 7,800                        | 4.00  | 11,701                                                                            | 6.00   |
| Tier 1 (core) capital (to adjusted tangible assets) | 26,573   | 8.85   | 12,005                       | 4.00  | 15,007                                                                            | 5.00   |

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**NOTE 10 - MINIMUM REGULATORY CAPITAL REQUIREMENTS (Continued)**

The following is a reconciliation of the Bank's equity under accounting principles generally accepted in the United States of America (GAAP) to regulatory capital (in thousands):

|                                                         | 2001     | 2000     |
|---------------------------------------------------------|----------|----------|
| GAAP equity                                             | \$28,721 | \$26,457 |
| Unrealized loss (gain) on securities available-for-sale | (52)     | 116      |
| Tier I capital                                          | 28,669   | 26,573   |
| General regulatory loan loss reserves                   | 1,720    | 1,514    |
| Total regulatory capital                                | \$30,389 | \$28,087 |

**NOTE 11 - EMPLOYEE BENEFIT PLANS**

The Bank has a 401(k) plan whereby substantially all employees participate in the plan. Employees may contribute up to 15% of their compensation subject to certain limits based on federal tax laws. The Bank makes matching contributions, to be determined annually by management, on the first 4% of the employee's compensation contributed to the plan. Matching contributions vest to the employee upon contribution date. For the years ended December 31, 2001, 2000, and 1999, expense attributable to the plan amounted to \$57,765, \$55,517, and \$53,298, respectively.

Effective June 1, 2001, the Board of Directors adopted a Deferred Compensation Plan under Section 401 of the Internal Revenue Code. The purpose of this plan is to provide specified benefits to a select group of management and highly compensated employees. Participants may elect to defer compensation, which accrues interest quarterly at the prime rate as reflected in *The Wall Street Journal* as of the last business day of the prior quarter.

**NOTE 12 - RELATED PARTY TRANSACTIONS**

The Company has granted loans to certain officers and directors and their related interests. Related party loans are made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with unrelated persons and do not involve more than normal risk of collectibility.

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PACIFIC TRUST BANK  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2001, 2000, and 1999

**NOTE 12 - RELATED PARTY TRANSACTIONS (Continued)**

Activity in the loan accounts of officers and directors and their related interests follows for the year ended December 31, 2001:

|                              |             |
|------------------------------|-------------|
| Balance at beginning of year | \$436,966   |
| Loans originated             | 894,011     |
| Principal repayments         | (179,442)   |
| Balance at end of year       | \$1,151,535 |

**NOTE 13 - FAIR VALUES OF FINANCIAL INSTRUMENTS**

The approximate carrying amount and estimated fair value of financial instruments consist of the following:

December 31, 2001

December 31, 2000

|                                         | Approximate<br>Carrying<br>Amount | Estimated<br>Fair Value | Approximate<br>Carrying<br>Amount | Estimated<br>Fair Value |
|-----------------------------------------|-----------------------------------|-------------------------|-----------------------------------|-------------------------|
| <b>Financial Assets</b>                 |                                   |                         |                                   |                         |
| Cash and cash equivalents               | \$ 18,002,739                     | \$ 18,002,739           | \$ 7,699,484                      | \$ 7,699,484            |
| Securities available-for-sale           | 13,660,542                        | 13,660,542              | 40,947,600                        | 40,947,600              |
| Federal Home Loan Bank stock            | 2,508,600                         | 2,508,600               | 2,705,000                         | 2,705,000               |
| Other investments                       | -                                 | -                       | 824,500                           | 824,500                 |
| Loans, net                              | 257,215,870                       | 257,894,418             | 234,301,008                       | 235,882,376             |
| Servicing agent receivable              | 11,687,133                        | 11,687,133              | 7,922,902                         | 7,922,902               |
| Accrued interest receivable             | 1,459,770                         | 1,459,770               | 1,596,098                         | 1,596,098               |
| <b>Financial Liabilities</b>            |                                   |                         |                                   |                         |
| Deposits                                | \$251,953,890                     | \$253,348,273           | \$218,694,653                     | \$217,489,854           |
| Advances from Federal Home<br>Loan Bank | 28,000,000                        | 28,029,000              | 53,800,000                        | 56,248,028              |
| Accrued interest payable                | 8,106                             | 8,106                   | 125,214                           | 125,214                 |

The methods and assumptions used to estimate fair value are described as follows:

Carrying amount is the estimated fair value for cash and cash equivalents, short-term borrowings, FHLB stock, accrued interest receivable and payable, demand deposits, short-term debt, and variable rate loans or deposits that reprice frequently and fully. Security fair values are based on market prices or dealer quotes and, if no such information is available, on the rate and term of the security and information about the issuer. For fixed rate loans and deposits and for variable rate loans or deposits with infrequent repricing or repricing limits, fair value is based on discounted cash flows using current market rates applied to the estimated life and credit risk.

(Continued)

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PACIFIC TRUST BANK  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2001, 2000, and 1999

**NOTE 13 - FAIR VALUES OF FINANCIAL INSTRUMENTS (Continued)**

The fair value of advances from the Federal Home Loan Bank is based on current rates for similar financing. The fair value of off-balance-sheet items is based on the current fees or the cost that would be charged to enter into or terminate such arrangements.

**NOTE 14 - OTHER COMPREHENSIVE INCOME**

Other comprehensive income components and related taxes were as follows:

|                                                                       | 2001      | 2000      | 1999        |
|-----------------------------------------------------------------------|-----------|-----------|-------------|
| Unrealized holding gains (losses) on<br>securities available-for-sale | \$229,934 | \$474,893 | \$(721,860) |
| Reclassification adjustments for<br>losses recognized in income       | 55,131    | 125,010   | -           |
| Net unrealized gains (losses)                                         | 285,065   | 599,903   | (721,860)   |
| Change in tax status                                                  | -         | 328,145   | -           |
| Tax effect                                                            | (117,305) | (246,859) | -           |
| Other comprehensive income (loss)                                     | \$167,760 | \$681,189 | \$(721,860) |

**NOTE 15 - ADOPTION OF PLAN OF CONVERSION (UNAUDITED)**

On March 1, 2002, the Board of Directors of the Bank adopted a Plan of Conversion to convert from a federal mutual savings bank to a federal stock savings bank with the concurrent formation of a holding company. The conversion will be accomplished through

the amendment of the Bank's charter and the sale of the proposed holding company's common stock in an amount equal to the consolidated pro forma market value of the holding company and the Bank after giving effect to the conversion. A subscription offering of the shares of common stock will be offered initially to the Bank's eligible deposit account holders, then to other members of the Bank. Any shares of the holding company's common stock not sold in the subscription offering will be offered for sale to the general public, giving preference to the Bank's market area.

At the time of conversion, the Bank will establish a liquidation account in an amount equal to its total net worth as of the latest statement of financial condition appearing in the final prospectus. The liquidation account will be maintained for the benefit of eligible depositors who continue to maintain their accounts at the Bank after the conversion. The liquidation account will be reduced annually to the extent that eligible depositors have reduced their qualifying deposits. Subsequent increases will not restore an eligible account holder's interest in the liquidation account. In the event of a complete liquidation, each eligible depositor will be entitled to

(Continued)

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PACIFIC TRUST BANK  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
December 31, 2001, 2000, and 1999

NOTE 15 - ADOPTION OF PLAN OF CONVERSION (UNAUDITED) (Continued)

receive a distribution from the liquidation account in an amount proportionate to the current adjusted qualifying balances for accounts then held. The liquidation account balance is not available for payment of dividends.

Conversion costs will be deferred and deducted from the proceeds of the shares sold in the conversion. If the conversion is not completed, all costs will be charged to expense. At December 31, 2001, \$48,131 has been deferred.

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No person has been authorized to give any information or to make any representation other than as contained in this prospectus in connection with the offering made hereby, and, if given or made, such other information or representation must not be relied upon as having been authorized by First PacTrust Bancorp, Inc., Pacific Trust Bank or Keefe, Bruyette & Woods, Inc. This prospectus does not constitute an offer to sell or a solicitation of an offer to buy any of the securities offered hereby to any person in any jurisdiction in which such offer or solicitation is not authorized or in which the person making such offer or solicitation is not qualified to do so, or to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction. Neither the delivery of this prospectus nor any sale hereunder shall under any circumstances create any implication that there has been no change in the affairs of First PacTrust Bancorp, Inc. or Pacific Trust Bank since any of the dates as of which information is furnished herein or since the date hereof.

UP TO  
4,099,750 SHARES

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FIRST PACTRUST  
BANCORP, INC.  
(Proposed Holding Company for  
Pacific Trust Bank)

COMMON STOCK

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## PROSPECTUS

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### KEEFE, BRUYETTE & WOODS, INC.

[\_\_\_\_\_], 2002

#### Dealer Prospectus Delivery Obligation

Until the later of [\_\_\_\_\_] or 25 days after the commencement of the public offering, if any, all dealers that effect transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealers' obligation of dealers to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

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## PART II

### INFORMATION NOT REQUIRED IN PROSPECTUS

#### Item 24. Indemnification of Directors and Officers

Article 12 of First PacTrust Bancorp, Inc.'s Charter provides for indemnification of current and former directors and officers or individuals serving any other entity at the request of First PacTrust Bancorp, Inc., to the fullest extent required or permitted under Maryland law. In addition, Article 12 provides for the indemnification of other employees and agents to the extent authorized by the Board of Directors and permitted under Maryland law. Article 12 also provides First PacTrust Bancorp, Inc. with the authority to purchase insurance for indemnification purposes. The indemnification provisions set forth within Article 12 are non-exclusive in nature, however, First PacTrust Bancorp, Inc. shall not be liable for any payment under Article 12 to the extent that said person entitled to be indemnified has actually received payment under any insurance policy, agreement or otherwise of the amounts indemnifiable under Article 12.

Section 2-418 of the General Corporation Law of the State of Maryland permits a corporation to indemnify a person against judgments, penalties, settlements and reasonable expenses unless it is proven that (1) the conduct of the person was material to the matter giving rise to the proceeding and the person acted in bad faith or with "active and deliberate dishonesty," (2) the person actually received an improper benefit or (3) in the case of a criminal proceeding, the person had reason to believe that his conduct was unlawful.

Maryland law provides that where a person is a defendant in a derivative proceeding, the person may not be indemnified if the person is found liable to the corporation. Maryland law also provides that a person may not be indemnified in any proceeding alleging improper personal benefit to the person in which the person was found liable on the grounds that personal benefit was improperly received.

Maryland law further provides that unless otherwise provided in the corporation's Charter, a director or officer (but not an employee or agent) who is successful on the merits or otherwise in defense of any proceeding must be indemnified against reasonable expenses. The Charter does not otherwise provide a bar against mandatory indemnification.

Finally, Section 2-418 of the General Corporation Law also permits expenses incurred by a person in defending a proceeding to be paid by the corporation in advance of the final disposition of the proceeding upon the receipt of an undertaking by the director or officer to repay this amount if it is ultimately determined that he or she is not entitled to be indemnified by the corporation against these expenses. The person seeking indemnification of expenses must affirm in writing that he or she believes in good faith that he or she has met the applicable standard for indemnification of expenses.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 (the "Act") may be permitted to directors, officers and controlling persons of First PacTrust Bancorp, Inc.

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pursuant to the foregoing provisions, or otherwise, First PacTrust Bancorp, Inc. has been advised that in the opinion of the Securities and Exchange Commission, such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable.

### Item 25. Other Expenses of Issuance and Distribution

Set forth below is an estimate of the amount of fees and expenses (other than underwriting discounts and commissions) to be incurred in connection with the issuance of the shares.

|                                                                                  |                    |
|----------------------------------------------------------------------------------|--------------------|
| Counsel fees and expenses                                                        | \$ 195,000         |
| Accounting fees and expenses                                                     | 95,000             |
| Appraisal and business plan preparation fees and expenses                        | 54,500             |
| Underwriting fees <sup>(1)</sup> (including financial advisory fee and expenses) | 461,000            |
| Underwriter's counsel fees and expenses                                          | 35,000             |
| Printing, postage and mailing                                                    | 230,000            |
| Registration and Filing Fees                                                     | 12,172             |
| NASDAQ Listing Fee                                                               | 100,000            |
| Stock transfer agent and certificates                                            | 20,000             |
| Other expenses <sup>(1)</sup>                                                    | 8,328              |
| TOTAL                                                                            | <u>\$1,211,000</u> |

<sup>(1)</sup> Based on maximum of Estimated Valuation Range.

### Item 26. Recent Sales of Unregistered Securities

The Registrant is newly incorporated, solely for the purpose of acting as the holding company of Pacific Trust Bank, pursuant to the Plan of Conversion (filed as Exhibit 2 herein), and no sales of its securities have occurred to date.

### Item 27. Exhibits and Financial Statement Schedules

See the Exhibit Index filed as part of this Registration Statement.

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### Item 28. Undertakings

The undersigned Registrant hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement to:
  - (i) Include any Prospectus required by Section 10(a)(3) of the Securities Act of 1933;
  - (ii) Reflect in the Prospectus any facts or events arising after the effective date of the Registration Statement (or

the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement; and

- (iii) Include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement.
- (2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new Registration Statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.
- (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and it will be governed by the final adjudication of such issue.

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## SIGNATURES

In accordance with the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements of filing on Form S-1 and authorized this Registration Statement to be signed on its behalf by the undersigned, in the City of Chula Vista, State of California, on March 27, 2002.

### FIRST PACTRUST BANCORP, INC.

By: /s/ HANS R. GANZ  
Hans R. Ganz, President and  
Chief Executive Officer  
(Duly Authorized Representative)

**KNOW ALL MEN BY THESE PRESENTS**, that each person whose signature appears below constitutes and appoints Hans R. Ganz his true and lawful attorney-in-fact and agent, with full power of substitution and re-substitution, for him and in his name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement, and to file the same, with all exhibits thereto, and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all said attorney-in-fact and agent or his substitute or substitutes may lawfully do or cause to be done by virtue hereof.

In accordance with the requirements of the Securities Act of 1933, this Registration Statement has been signed below by the following persons in the capacities and on the dates indicated.

/s/ HANS R. GANZ

Hans R. Ganz  
President, Chief Executive Officer  
and Director

March 27, 2002

/s/ ALVIN L. MAJORS

Alvin L. Majors  
Chairman of the Board

March 27, 2002

/s/ FRANCIS P. BURKE

Francis P. Burke

Director

March 27, 2002

/s/ KENNETH SCHOLZ

Kenneth Scholz

Director

March 27, 2002

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/s/ DONALD PURDY

Donald Purdy

Director

March 27, 2002

/s/ DONALD WHITACRE

Donald Whitacre

Director

March 27, 2002

/s/ REGAN GALLAGHER

Regan Gallagher

Controller (*Principal Financial and Accounting Officer*)

March 27, 2002

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## EXHIBIT INDEX

### Exhibits:

- 1.1 Engagement Letter with Keefe, Bruyette & Woods, Inc.
- 1.2 Form of Agency Agreement with Keefe, Bruyette & Woods, Inc.
- 2.0 Plan of Conversion
- 3.1 Charter for First PacTrust Bancorp, Inc.
- 3.2 Bylaws of First PacTrust Bancorp, Inc.

- 4.0 Form of Stock Certificate of First PacTrust Bancorp, Inc.
- 5.0 Opinion of Silver, Freedman & Taff L.L.P. re: Legality
- 8.1 Opinion of Silver, Freedman & Taff L.L.P. re: Federal Tax Matters
- 8.2 Opinion of Crowe, Chizek and Company re: State Tax Matters\*
- 8.3 Letter of RP Financial, LC. re: Subscription Rights
- 10.1 Form of Severance Agreement
- 10.2 Employee Stock Ownership Plan
- 10.3 Letter Agreement regarding Appraisal Services
- 10.4 Letter Agreement regarding Business Plan
- 21.0 Subsidiaries of the Registrant
- 23.1 Consent of Silver, Freedman & Taff L.L.P. re: Legality (included in Exhibit 5.0)
- 23.2 Consent of Crowe, Chizek and Company
- 23.3 Consent of RP Financial, LC.
- 24.0 Power of Attorney, included in signature pages
- 99.1 Appraisal Report of RP Financial, LC. \*
- 99.2 Subscription Order Form and Instructions
- 99.3 Additional Solicitation Material

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\* To be filed by amendment

End.

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**FIRST PACTRUST BANCORP, INC.**

\_\_\_\_\_, Shares

**COMMON STOCK**

(Par Value \$.10 Per Share)

Subscription Price \$.01 Per Share

**AGENCY AGREEMENT**

\_\_\_\_\_, 2002

Keefe, Bruyette & Woods, Inc.  
211 Bradenton Avenue  
Dublin, Ohio 43017

Ladies and Gentlemen:

Firat PacTrust Bancorp, Inc., a Maryland corporation (the "Company") and Pacific Trust Bank, a federal mutual savings bank (the "Bank") (references to the "Bank" include the Bank in mutual or stock form, as indicated by the context), with its' deposit accounts insured by the Savings Association Insurance Fund ( "SAIF") administered by the Federal Deposit Insurance Corporation ("FDIC"), hereby confirm, jointly and severally, their agreement with Keefe, Bruyette & Woods, Inc. (the "Agent"), as follows:

**Section 1. The Offering.** In accordance with the plan of conversion adopted by its Board of Directors (the "Plan"), the Company will offer and sell up to \_\_\_\_\_ shares of its common stock, par value, \$.01 per share (the "Shares" or "Common Stock"), in a subscription offering (the "Subscription Offering") to (1) depositors of the Bank with account balances of \$\_\_\_\_\_ or more as of December 31, 1999 ("Eligible Account Holders"), (2) the Company's Employee Stock Ownership Plan, (3) depositors of the Bank with account balances of \$50.00 or more as of March 31, 2002 ("Supplemental Eligible Account Holders"), (4) depositors of the Bank as of the close of business on \_\_\_\_\_, who continue as depositors as of the Special Meeting who are not Eligible Account Holders or Supplemental Eligible Account Holders ("Other Members"), and (5) employees, officers and directors of the Bank to the extent they are not Eligible Account Holders, Supplemental Eligible Account Holders, or Other Members. To the extent Shares remain unsold in the Subscription Offering, the Company is offering for sale in a direct community offering (the "Community Offering" and when referred to together with the Subscription Offering, the "Subscription and Community Offering") the Shares not so subscribed for or ordered in the Subscription Offering to members of the general public, with preference given to natural persons residing in the counties where the Bank has offices ("Other Subscribers"), (all such offerees being referred to in the aggregate as "Eligible Offerees"). It is anticipated that shares not subscribed for in the Subscription and

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Community Offering will be offered to certain members of the general public on a best efforts basis through a selected dealers arrangement (the "Public Offering") (the Subscription Offering, Community Offering and Public Offering are collectively referred to as the "Offering"). It is acknowledged that the purchase of Shares in the Offering is subject to the maximum and minimum purchase limitations as described in the Plan and that the Company and the Bank may reject, in whole or in part, any orders received in the Community Offering or Public Offering. The Company will issue the Shares at a purchase price of \$10.00 per share (the "Purchase Price").

The Company has filed with the Securities and Exchange Commission (the "Commission") a registration statement on Form S-1 (File No. 333-\_\_\_\_\_) (the "Registration Statement") containing a prospectus relating to the Offering for the registration of the Shares under the Securities Act of 1933 (the "1933 Act"), and has filed such amendments thereof and such amended prospectuses as may have been required to the date hereof. The term "Registration Statement" shall include all exhibits thereto, as amended, including post-effective amendments. The prospectus, as amended, on file with the Commission at the time the Registration Statement initially became effective is hereinafter called the "Prospectus," except that if any Prospectus is filed by the Company pursuant to Rule 424(b) or (c) of the rules and regulations of the Commission under the 1933 Act (the "1933 Act Regulations") differing from the Prospectus on file at the time the Registration Statement initially becomes effective, the term "Prospectus" shall refer to the prospectus filed pursuant to Rule 424(b) or (c) from and after the time said prospectus is filed with the Commission.

The Bank and the Company have filed with the Office of Thrift Supervision ("OTS") an Application for Conversion on Form AC for the Bank with respect to the stock issuance (the "Conversion Application"), including the Prospectus and the Valuation Appraisal Report prepared by RP Financial LC (the "Appraisal") and has filed such amendments thereto as may have been required by the OTS. The Company has filed an Application H-(e)1-S to become a savings and loan holding company (the

"Holding Company Application") pursuant to the Home Owner's Loan Act, as amended (the "HOLA") with the OTS. The Conversion Application and Holding Company Application have each been approved and the related Prospectus has been authorized for use.

**Section 2. Retention of Agent; Compensation; Sale and Delivery of the Shares.** Subject to the terms and conditions herein set forth, the Company and the Bank have retained the Agent to consult with and to advise the Bank and the Company, and to assist the Company, on a best efforts basis, in the distribution of the shares of Common Stock in the Offering. The services that the Agent will provide include, but are not limited to (i) training the employees of the Bank who will perform certain ministerial functions in the Subscription and Community Offering regarding the mechanics and regulatory requirements of the stock offering process, (ii) managing the Stock Information Center by assisting interested stock subscribers and by keeping records of all stock orders and (iii) preparing marketing materials.

On the basis of the representations, warranties, and agreements herein contained, but subject to the terms and conditions herein set forth, the Agent accepts such appointment and agrees to consult with and advise the Company and the Bank as to the matters set forth in the letter agreement ("Letter Agreement"), dated June 4, 2001 between the Bank and the Agent (a copy of which is attached hereto as Exhibit A). It is acknowledged by the Company and the Bank that the Agent shall not be required to take or purchase any Shares or be obligated to take any action which is

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inconsistent with all applicable laws, regulations, decisions or orders. In the event of a Public Offering, the Agents will assemble and manage a selling group of broker-dealers which are members of the National Association of Securities Dealers, Inc. (the "NASD") to participate in the solicitation of purchase orders for shares under a selected dealers' agreement ("Selected Dealers' Agreement"), the form of which is set forth as a Exhibit B to this Agreement.

Agent also agrees to provide financial advisory assistance to the Bank and the Company at no charge for a period of one year following the completion of the Offering including general advice on the market for bank stocks and the stock of the Company, shareholder enhancement methods and other related matters. Thereafter, if the parties wish to continue the relationship, a fee will be negotiated and an agreement with respect to specific advisory services will be entered into at that time.

The obligations of the Agent pursuant to this Agreement (other than those set forth in Sections 9 and 10 hereof) shall terminate upon the completion or termination or abandonment of the Plan by the Company or upon termination of the Offering, but in no event later than the date (the "End Date") which is 45 days after the Closing Date (as hereinafter defined). All fees or expenses due to the Agent but unpaid will be payable to the Agent in next day funds at the earlier of the Closing Date (as hereinafter defined) or the End Date. In the event the Offering is extended beyond the End Date, the Company, the Bank and the Agent may agree to renew this Agreement under mutually acceptable terms.

In the event the Company is unable to sell a minimum of \_\_\_\_\_ Shares within the period herein provided, this Agreement shall terminate and the Company shall refund to any persons who have subscribed for any of the Shares, the full amount which it may have received from them plus accrued interest as set forth in the Prospectus; and none of the parties to this Agreement shall have any obligation to the other parties hereunder, except as set forth in this Section 2 and in Sections 7, 9 and 10 hereof.

In the event the Offering is terminated, the Agent shall be paid the fees due to the date of such termination pursuant to subparagraphs (a) and (d) below.

If all conditions precedent to the consummation of the Conversion, including, without limitation, the sale of all Shares required by the Plan to be sold, are satisfied, the Company agrees to issue, or have issued, the Shares sold in the Offering and to release for delivery certificates for such Shares on the Closing Date (as hereinafter defined) against payment to the Company by any means authorized by the Plan; provided, however, that no funds shall be released to the Company until the conditions specified in Section 8 hereof shall have been complied with to the reasonable satisfaction of the Agent and their counsel. The release of Shares against payment therefor shall be made on a date and at a place acceptable to the Company, the Bank and the Agent. Certificates for shares shall be delivered directly to the purchasers in accordance with their directions. The date upon which the Company shall release or deliver the Shares sold in the Offering, in accordance with the terms herein, is called the "Closing Date."

The Agent shall receive the following compensation for its services hereunder:

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(a) A management fee of \$25,000, payable in four consecutive monthly installments of \$6,250 commencing with the adoption of the Plan. All installments have been paid as of the date hereof. Should

the Offering be terminated for any reason not attributable to the action or inaction of the Agent, the Agent shall have earned and be entitled to be paid fees accruing through the stage at which the termination occurred.

(b) A Success Fee of 1.5% shall be charged based upon the aggregate Purchase Price of Common Stock sold in the Subscription and Community Offering excluding shares purchased by the Bank's officers, directors or employees (or members if they are immediate family) plus any ESOP, tax-qualified or stock based compensation plans (except IRA's or similar plan created by the Bank for some or all of its directors and employees). The management fee in Section 2(a) will be applied against the Success Fee.

(c) If any of the shares remain available after the Subscription and Community Offerings, at the request of the Company, the Agent will seek to form a syndicate of registered broker-dealers to assist in the sale of such Common Stock on a best efforts basis, subject to the terms and conditions set forth in the selected dealers agreement. the Agent will endeavor to distribute the Common Stock among dealers in a fashion which best meets the distribution objectives of the Company and the Plan. The Agent will be paid a fee not to exceed 5.5% of the aggregate Purchase Price of the Shares sold by them. The Agent will pass onto selected broker-dealers, who assist in the Public Offering, an amount competitive with gross underwriting discounts charged at such time for comparable amounts of stock sold at a comparable price per share in a similar market environment. Fees with respect to purchases affected with the assistance of a broker/dealer other than the Agent shall be transmitted by the Agent to such broker/dealer. The decision to utilize selected broker-dealers will be made by the Company upon consultation with the Agent. In the event, with respect to any purchases of Shares, fees are paid pursuant to this subparagraph 2(c), such fees shall be credited against the payments made pursuant to subparagraph 2(a) and 2(b).

(d) The Company will bear those expenses of the proposed offering customarily borne by issuers, including, without limitation, regulatory filing fees, "Blue Sky," and NASD filing and registration fees; the fees of the Company's accountants, attorneys, appraiser, transfer agent and registrar, printing, mailing and marketing and syndicate expenses associated with the Offering; and fees for "Blue Sky" legal work. If the Agent incurs expenses on behalf of the Company, the Company will reimburse the Agent for such expenses. The Agent shall be reimbursed for reasonable out-of-pocket expenses, including costs of travel, meals and lodging, photocopying, telephone, facsimile and couriers. The Agent shall also be reimbursed for its fees and expense of underwriter's counsel (such fees of counsel will not be incurred without the prior approval of the Company) not to exceed \$35,000. The selection of such counsel will be done by the Agent, after consultation with the Company.

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**Section 3. Prospectus; Offering.** The Shares are to be initially offered in the Offering at the Purchase Price as defined and set forth on the cover page of the Prospectus. The Purchase Price may be changed by the Company after consultation with the Agent, subject to such approval of the OTS and declaration of effectiveness of an amendment to the Prospectus by the Commission as may be required. The parties hereto hereby acknowledge that, without the prior written consent of the OTS, the Conversion will not be consummated until the Company has received subscriptions for at least the minimum range of the pro forma market value of the Company.

**Section 4. Representations and Warranties of the Company and the Bank.** The Company and the Bank jointly and severally represent and warrant to and agree with the Agent as follows:

(a) The Registration Statement which was prepared by the Company and the Bank and filed with the Commission was declared effective by the Commission on \_\_\_\_\_, 2002. At the time the Registration Statement, including the Prospectus contained therein (including any amendment or supplement), became effective, the Registration Statement contained all statements that were required to be stated therein in accordance with the 1933 Act and the 1933 Act Regulations, complied in all material respects with the requirements of the 1933 Act and the 1933 Act Regulations and the Registration Statement, including the Prospectus contained therein (including any amendment or supplement thereto), and any information regarding the Company or the Bank contained in Sales Information (as such term is defined in Section 9 hereof) authorized by the Company or the Bank for use in connection with the Offering, did not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and at the time any Rule 424(b) or (c) Prospectus was filed with the Commission and at the Closing Date referred to in Section 2, the Registration Statement, including the Prospectus contained therein (including any amendment or supplement thereto), and any information regarding the Company or the Bank contained in Sales Information authorized by the Company or the Bank for use in connection with the

Offering will contain all statements that are required to be stated therein in accordance with the 1933 Act and the 1933 Act Regulations and will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, that the representations and warranties in this Section 4(a) shall not apply to statements or omissions made in reliance upon and in conformity with written information furnished to the Company or the Bank by the Agent or its counsel expressly regarding the Agent for use in the Prospectus or statements in or omissions from any Sales Information or information filed pursuant to state securities or blue sky laws or regulations regarding the Agent.

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(b) The Conversion Application which was prepared by the Company and the Bank and filed with the OTS was approved by the OTS on \_\_\_\_\_, 2002, and the related Prospectus has been authorized for use by the OTS. At the time of the approval of the Conversion Application, including the Prospectus (including any amendment or supplement thereto), by the OTS and at all times subsequent thereto until the Closing Date, the Conversion Application, including the Prospectus (including any amendment or supplement thereto), will comply in all material respects with the rules and regulations of the OTS ("Conversion Regulations"), except to the extent waived in writing by the OTS. The Conversion Application, including the Prospectus (including any amendment or supplement thereto), does not include any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, that the representations and warranties in this Section 4(b) shall not apply to statements or omissions made in reliance upon and in conformity with written information furnished to the Company or the Bank by the Agent or its counsel expressly regarding the Agent for use in the Prospectus contained in the Conversion Application or statements in or omissions from any Sales Information.

(c) As of the Closing Date, the Bank and the Company will have satisfied the conditions precedent to their consummation of the Conversion in all material respects in accordance with the Plan, and shall have complied in all material respects with the HOLA and all other applicable laws, regulations, decisions and orders, including all terms, conditions, requirements, and provisions precedent to the Conversion imposed upon each of them by the OTS. The Plan has been duly and validly adopted by the Board of Directors of each of the Bank and the Company. The filing of the Holding Company Application has been approved by the Board of Directors of the Company. The OTS has approved the Plan and authorized the use of the Prospectus and such approval and authorization remains in full force and effect.

(d) The Company will be a savings and loan holding company under the HOLA upon completion of the Conversion. The Holding Company Application which was prepared by the Company and the Bank and filed with the OTS was approved by the OTS on \_\_\_\_\_, 2002. At the time of the approval of the Holding Company Application, including the Prospectus (including any amendment or supplement thereto), by the OTS and at all times subsequent thereto until the Closing Date, the Holding Company Application, including the Prospectus (including any amendment or supplement thereto), will comply in all material respects with the HOLA and related regulations, except to the extent waived in writing by the OTS. The Holding Company Application, including the Prospectus (including any amendment or supplement thereto), does not include any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, that the representations and warranties in this Section 4(d) shall not apply to statements or omissions made in reliance upon and in conformity with written information furnished to the Company or the Bank by the Agent or its counsel expressly regarding the Agent for use in the Prospectus contained in the Holding Company Application or statements in or omissions from any Sales Information.

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(e) No order has been issued by the OTS preventing or suspending the use of the Prospectus, and no action by or before any such government entity to revoke any approval, authorization or order of effectiveness related to the Offering is, to the best knowledge of the Company or the Bank, pending or threatened.

(f) The Company does not own any equity securities or any equity interest in any business enterprise except as described in the Prospectus.

(g) The Plan has been adopted by the Boards of Directors of the Company and the Bank and at the Closing Date will have been approved by the members of the Bank, and the offer and sale of the Shares will have been conducted in all material respects in accordance with the Plan, the Conversion Regulations, and all other applicable laws, regulations, decisions and orders, including all terms, conditions, requirements and provisions precedent to the Offering imposed upon the Company or the Bank by the OTS, the Commission, or any other regulatory authority and in the manner described in the Prospectus. To the best knowledge of the Company, no person has sought to obtain review of the final action of the OTS in approving the Plan, or in approving the Conversion or the Conversion Application or the Holding Company Application pursuant to any applicable state or federal statute or regulation.

(h) The Bank has been organized and is validly existing as a federal savings bank in mutual form of organization, and on the Closing Date will become a duly organized and validly existing federal savings bank in capital stock form of organization, in both instances, duly authorized to conduct its business and own its property as described in the Registration Statement and the Prospectus. The Bank has obtained all material licenses, permits and other governmental authorizations currently required for the conduct of its business; all such licenses, permits and governmental authorizations are in full force and effect, and the Bank is in all material respects complying with all laws, rules, regulations and orders applicable to the operation of its business. The Bank is duly qualified as a foreign corporation to transact business and is in good standing in each jurisdiction in which its ownership of property or leasing of property or the conduct of its business requires such qualification, unless the failure to be so qualified in one or more of such jurisdictions would not individually or in the aggregate have a material adverse effect on the condition, financial or otherwise, or the business, operations or income of the Bank. The Bank does not own equity securities or any equity interest in any other business enterprise except as described in the Prospectus or as would not be material to the operations of the Bank. Upon sale by the Company of the Shares contemplated by the Prospectus, (i) all of the issued and outstanding capital stock of the Bank will be owned by the Company and (ii) the Company will have no direct subsidiaries other than the Bank. At the Closing Date, the Conversion will have been effected in all material respects in accordance with all applicable statutes, regulations, decisions and orders; and, except with respect to the filing of certain post-sale, post-Conversion reports, and documents in compliance with the 1933 Act Regulations, the OTS letters of approval, all terms, conditions, requirements and provisions with respect to the Conversion imposed by the Commission and the Agencies, if any, will have been complied with by the Company and the Bank in all material respects or appropriate waivers will have been obtained and all material notice and waiting periods will have been satisfied, waived or elapsed.

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(i) The Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Maryland with corporate power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement and the Prospectus, and at the Closing Date the Company will be qualified to do business as a foreign corporation in the State of California and in each jurisdiction in which the conduct of its business requires such qualification, except where the failure to so qualify would not individually or in the aggregate have a material adverse effect on the condition, financial or otherwise, or the business, operations or income of the Company. The Company has obtained all material licenses, permits and other governmental authorizations currently required for the conduct of its business; all such licenses, permits and governmental authorizations are in full force and effect, and the Company is in all material respects complying with all laws, rules, regulations and orders applicable to the operation of its business.

(j) The Bank is a member of the Federal Home Loan Bank of San Francisco ("FHLB-San Francisco"). The deposit accounts of the Bank are insured by the FDIC up to the applicable limits; and no proceedings for the termination or revocation of such insurance are pending or, to the best knowledge of the Company or the Bank, threatened.

(k) Upon consummation of the Conversion, the liquidation account for the benefit of Eligible Account Holders and Supplemental Eligible Account Holders will be duly established in accordance with the requirements of the Conversion Regulations and the Plan.

(l) The Company and the Bank have good and marketable title to all real property and good title to all other assets material to the business of the Company and the Bank, taken as a whole, and to those properties and assets described in the Registration Statement and Prospectus as owned by them, free and

clear of all liens, charges, encumbrances or restrictions, except such as are described in the Registration Statement and Prospectus, or are not material to the business of the Company and the Bank, taken as a whole; and all of the leases and subleases material to the business of the Company and the Bank, taken as a whole, under which the Company or the Bank hold properties, including those described in the Registration Statement and Prospectus, are in full force and effect.

(m) The Company and the Bank have received an opinion of their special counsel, Silver, Freedman & Taff, LLP with respect to the federal income tax consequences of the Conversion, the acquisition of the capital stock of the Bank by the Company and the sale of the Shares as described in the Registration Statement and the Prospectus, and an opinion from Crowe, Chizek and Company LLP ("Crowe Chizek") with respect to the California state income tax consequences of the proposed Conversion, acquisition of the capital stock of the Bank by the Company and the sale of the Shares as described in the Registration Statement and the Prospectus; all material aspects of the opinions of Silver, Freedman & Taff, LLP and Crowe Chizek are accurately summarized in the Prospectus; and the facts and representations upon which such opinions are based are truthful, accurate and complete.

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(n) The Company and the Bank have all such power, authority, authorizations, approvals and orders as may be required to enter into this Agreement, to carry out the provisions and conditions hereof and to issue and sell the Shares to be sold by the Company, as provided herein and as described in the Prospectus except approval or confirmation by the OTS of the final appraisal of the Company. The consummation of the Offering, the execution, delivery and performance of this Agreement and the consummation of the transactions herein contemplated have been duly and validly authorized by all necessary corporate action on the part of the Company and the Bank and this Agreement has been validly executed and delivered by the Company and the Bank and is the valid, legal and binding agreement of the Company and the Bank enforceable in accordance with its terms (except as the enforceability thereof may be limited by bankruptcy, insolvency, moratorium, reorganization or similar laws relating to or affecting the enforcement of creditors' rights generally or the rights of creditors of federal savings banks and savings and loan holding companies, the accounts of whose subsidiaries are insured by the FDIC or by general equity principles regardless of whether such enforceability is considered in a proceeding in equity or at law, and except to the extent if any, that the provisions of Sections 9 and 10 hereof may be unenforceable as against public policy).

(o) The Company and the Bank are not in violation of any directive received from the OTS, the States of Maryland or California or any other agency to make any material change in the method of conducting their businesses so as to comply with all applicable statutes and regulations (including, without limitation, regulations, decisions, directives and orders of the OTS and the FDIC) and, except as may be set forth in the Registration Statement and the Prospectus, there is no suit or proceeding or charge or action before or by any court, regulatory authority or governmental agency or body, pending or, to the knowledge of the Company or the Bank, threatened, which might materially and adversely affect the Offering, the performance of this Agreement or the consummation of the transactions contemplated in the Plan and as described in the Registration Statement and the Prospectus, or which might result in any material adverse change in the condition (financial or otherwise), earnings, capital or properties of the Company and the Bank, or which would materially affect their properties and assets.

(p) The financial statements, schedules and notes related thereto which are included in the Prospectus fairly present the consolidated balance sheet, income statement, statement of changes in equity and cash flows of the Bank at the respective dates indicated and for the respective periods covered thereby and comply as to form in all material respects with the applicable accounting requirements of the Agencies, regulation S-X of the Commission, and generally accepted accounting principles (including those requiring the recording of certain assets at their current market value). Such financial statements, schedules and notes related thereto have been prepared in accordance with generally accepted accounting principles consistently applied through the periods involved, present fairly in all material respects the information required to be stated therein and are consistent with the most recent financial statements and other reports filed by the Bank with the OTS. The other financial, statistical and pro forma information and related notes included in the Prospectus present fairly the information shown therein on a basis consistent with the audited financial statements of the Bank included in the Prospectus, and as to the pro forma adjustments, the adjustments described therein have been properly applied on the basis described therein.

(q) Since the respective dates as of which information is given in the Registration Statement including the Prospectus: (i) there has not been any material adverse change, financial or otherwise, in the condition of the Company or the Bank considered as one enterprise, or in the earnings, capital or properties of the Company or the Bank, whether or not arising in the ordinary course of business; (ii) there has not been any material increase in the long-term debt of the Bank or in the principal amount of the Bank's assets which are classified by the Bank as substandard, doubtful or loss or in loans past due 90 days or more or real estate acquired by foreclosure, by deed-in-lieu of foreclosure or deemed in-substance foreclosure or any material decrease in retained earnings or total assets of the Bank nor has the Company or the Bank issued any securities (other than in connection with the incorporation of the Company) or incurred any liability or obligation for borrowing other than in the ordinary course of business; (iii) there have not been any material transactions entered into by the Company or the Bank; (iv) there has not been any material adverse change in the aggregate dollar amount of the Bank's deposits or its consolidated net worth; (v) there has been no material adverse change in the Company's or the Bank's relationship with its insurance carriers, including, without limitation, cancellation or other termination of the Company's or the Bank's fidelity bond or any other type of insurance coverage; (vi) except as disclosed in the Prospectus there has been no material change in management of the Company or the Bank, neither of which has any material undisclosed liability of any kind, contingent or otherwise; (vii) the Company or the Bank has not sustained any material loss or interference with its respective business or properties from fire, flood, windstorm, earthquake, accident or other calamity, whether or not covered by insurance; (viii) the Company or the Bank is not in default in the payment of principal or interest on any outstanding debt obligations; (ix) the capitalization, liabilities, assets, properties and business of the Company and the Bank conform in all material respects to the descriptions thereof contained in the Prospectus; and (x) neither the Company nor the Bank has any material contingent liabilities, except as set forth in the Prospectus. All documents made available to or delivered or to be made available to or delivered by the Bank or the Company or their representatives in connection with the issuance and sale of the Shares, including records of account holders, depositors, borrowers and other members of the Bank, or in connection with the Agent's exercise of due diligence, were on the dates on which they were delivered, or will be on the dates on which they are to be delivered, true, complete and correct in all material respects.

(r) As of the date hereof and as of the Closing Date, neither the Company nor the Bank is (i) in violation of its charter or bylaws, respectively, or (ii) in default in the performance or observance of any material obligation, agreement, covenant, or condition contained in any material contract, lease, loan agreement, indenture or other instrument to which it is a party or by which it or any of its property may be bound. The consummation of the transactions herein contemplated will not: (i) conflict with or constitute a breach of, or default under, or result in the creation of any material lien, charge or encumbrance (with the exception of the liquidation account established in the Conversion) upon any of the assets of the Company or the Bank pursuant to the articles of incorporation, charter and bylaws of the Company and the Bank, or any material contract, lease or other instrument to which the Company or the Bank has a beneficial interest, or any applicable law, rule, regulation or order; (ii) violate any authorization, approval, judgment, decree, order, statute, rule or regulation applicable to the Company or the Bank, except for such violations which would not have a material adverse effect on the financial condition and results of operations of the Company and the Bank on a consolidated basis; or (iii) with the exception of the liquidation account established in the Conversion, result in the creation of any material lien, charge or encumbrance upon any property of the Company or the Bank.

(s) No default exists, and no event has occurred which with notice or lapse of time, or both, would constitute a default, on the part of the Company or the Bank in the due performance and observance of any term, covenant or condition of any indenture, mortgage, deed of trust, note, bank loan or credit agreement or any other instrument or agreement to which the Company or the Bank is a party or by which any of them or any of their property is bound or affected, except such defaults which would not have a material adverse effect on the financial condition or results of operations of the Company and the Bank on a consolidated basis; such agreements are in full force and effect; and no other party to any such agreements has instituted or, to the best knowledge of the Company and the Bank, threatened any action or proceeding wherein the Company or the Bank would or might be alleged to be in default thereunder.

(t) Upon consummation of the Offering, the authorized, issued and outstanding equity capital of the

Company will be within the range set forth in the Prospectus under the caption "Capitalization," and no Shares have been or will be issued and outstanding prior to the Closing Date; the Shares will have been duly and validly authorized for issuance and, when issued and delivered by the Company pursuant to the Plan against payment of the consideration calculated as set forth in the Plan and in the Prospectus, will be duly and validly issued, fully paid and non-assessable; except to the extent that subscription rights and priorities pursuant thereto exist pursuant to the Plan, no preemptive rights exist with respect to the Shares; and the terms and provisions of the Shares will conform in all material respects to the description thereof contained in the Registration Statement and the Prospectus. To the best knowledge of the Company and the Bank, upon the issuance of the Shares, good title to the Shares will be transferred from the Company to the purchasers thereof against payment therefor, subject to such claims as may be asserted against the purchasers thereof by third-party claimants.

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(u) No consent, approval, authorization or any other order of any court, regulatory, administrative or supervisory or other public authority is required in connection with the execution and delivery of this Agreement or the issuance of the Shares, except for the approval of the Commission, the OTS and any necessary qualification, notification, registration or exemption under the securities or blue sky laws of the various states in which the Shares are to be offered, and except as may be required under the rules and regulations of the NASD.

(v) Crowe, Chizek, which has certified the consolidated audited financial statements and schedules of the Bank included in the Prospectus, has advised the Company and the Bank in writing that they are, with respect to the Company and the Bank, independent public accountants within the meaning of the Code of Professional Ethics of the American Institute of Certified Public Accountants and the Conversion Regulations.

(w) RP Financial LC, which has prepared the Valuation Appraisal Report as of \_\_\_\_\_, 2002 (as amended or supplemented, if so amended or supplemented) (the "Appraisal"), has advised the Company in writing that it is independent of the Company and the Bank within the meaning of the Conversion Regulations.

(x) The Company and the Bank have timely filed all required federal, state and local tax returns; the Company and the Bank have paid all taxes that have become due and payable in respect of such returns, except where permitted to be extended, have made adequate reserves for similar future tax liabilities and no deficiency has been asserted with respect thereto by any taxing authority.

(y) The Company and the Bank are in compliance in all material respects with the applicable financial record-keeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, and the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 and the regulations and rules thereunder.

(z) To the knowledge of the Company and the Bank, neither the Company, the Bank nor employees of the Company or the Bank have made any payment of funds of the Company or the Bank as a loan for the purchase of the Shares or made any other payment of funds prohibited by law, and no funds have been set aside to be used for any payment prohibited by law.

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(aa) Prior to the Offering, neither the Company nor the Bank has: (i) issued any securities within the last 18 months (except for notes to evidence other bank loans and reverse repurchase agreements or other liabilities in the ordinary course of business); (ii) had any material dealings within the 12 months prior to the date hereof with any member of the NASD, or any person related to or associated with such member, other than discussions and meetings relating to the proposed Offering and routine purchases and sales of United States government and agency securities; (iii) entered into a financial or management consulting agreement except as contemplated hereunder; and (iv) engaged any intermediary between the Agent and

the Company and the Bank in connection with the offering of the Shares, and no person is being compensated in any manner for such service. Appropriate arrangements have been made for placing the funds received from subscriptions for Shares in a special interest-bearing account with the Bank until all Shares are sold and paid for, with provision for refund to the purchasers in the event that the Offering is not completed for whatever reason or for delivery to the Company if all Shares are sold.

(bb) The Company and the Bank have not relied upon the Agent or its legal counsel or other advisors for any legal, tax or accounting advice in connection with the Offering.

(cc) The Company is not required to be registered under the Investment Company Act of 1940, as amended.

(dd) Any certificates signed by an officer of the Company or the Bank pursuant to the conditions of this Agreement and delivered to the Agent or their counsel that refers to this Agreement shall be deemed to be a representation and warranty by the Company or the Bank to the Agent as to the matters covered thereby with the same effect as if such representation and warranty were set forth herein.

(ee) The Bank and the Company have complied or will comply in all material respects with each and every undertaking or commitment made by them under the blue sky laws, including, without limitation, each and every undertaking or commitment made in connection with the Subscription and Community Offering.

(ff) Appropriate arrangements have been made for placing the funds received from subscriptions for Shares in special interest-bearing accounts with the Bank until all Shares are sold and paid for, with provision for refund to the purchasers in the event that the Conversion is not completed for whatever reason or for delivery to the Company if all shares are sold.

## **Section 5. Representations and Warranties of the Agent.**

The Agent represents and warrants to the Company and the Bank that:

(a) it is a corporation and is validly existing in good standing under the laws of the State of New York and licensed to conduct business in the State of New York and it has the full power and authority to provide the services to be furnished to the Bank and the Company hereunder.

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(b) The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary action on the part of the Agent, and this Agreement has been duly and validly executed and delivered by the Agent and is a legal, valid and binding agreement of the Agent, enforceable in accordance with its terms (except as the enforceability thereof may be limited by bankruptcy, insolvency, moratorium, reorganization or similar laws relating to or affecting the enforcement of creditors' rights generally, or by general equity principles regardless of whether such enforceability is considered in a proceeding in equity or at law, and except to the extent if any, that the provisions of Sections 9 and 10 hereof may be unenforceable as against public policy).

(c) Each of the Agent and its employees, agents and representatives who shall perform any of the services hereunder shall be duly authorized and empowered, and shall have all licenses, approvals and permits necessary to perform such services.

(d) All funds received by the Agent, and the Agent's employees, agents and representatives from the sale of Shares in the Offering will be transmitted to a segregated, interest-bearing account with the Bank by noon of the next business day following receipt of the funds.

(e) The execution and delivery of this Agreement by the Agent, the consummation of the transactions contemplated hereby and compliance with the terms and provisions hereof will not conflict with, or result in a breach of, any of the terms, provisions or conditions of, or constitute a default (or an event which with notice or lapse of time or both would constitute a default) under, the articles of incorporation of the Agent or any material agreement, indenture or other instrument to which the Agent is a party or by which it or its property is bound.

(f) No approval of any regulatory or supervisory or other public authority is required in connection with the Agent's execution and delivery of this Agreement, except as may have been received.

(g) There is no suit or proceeding or charge or action before or by any court, regulatory authority or government agency or body or, to the knowledge of the Agent, pending or threatened, which might materially adversely affect the Agent's performance of this Agreement.

**Section 6. Covenants of the Company and the Bank.** The Company and the Bank hereby jointly and severally covenant with the Agent as follows:

(a) The Company will not, at any time after the date the Registration Statement is declared effective, file any amendment or supplement to the Registration Statement without providing the Agent and its counsel an opportunity to review such amendment or supplement or file any amendment or supplement to which amendment or supplement the Agent or its counsel shall reasonably object.

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(b) Neither the Bank nor the Company will, at any time after the Conversion Application and Holding Company Application are approved by the OTS, file any amendment or supplement to such Applications without providing the Agent and its counsel an opportunity to review such amendment or supplement or file any amendment or supplement to which amendment or supplement the Agent or its counsel shall reasonably object.

(c) The Company and the Bank will use their best efforts to cause any post-effective amendment to the Registration Statement to be declared effective by the Commission and any post-approval amendment to the Conversion Application and Holding Company Application to be approved by the OTS and will immediately upon receipt of any information concerning the events listed below notify the Agent: (i) when the Registration Statement, as amended, has become effective; (ii) when the Conversion Application and Holding Company Application, as amended have been approved by the OTS; (iii) any comments from the Commission, the OTS or any other governmental entity with respect to the Offering or the transactions contemplated by this Agreement; (iv) of the request by the Commission, the OTS or any other governmental entity for any amendment or supplement to the Registration Statement, the Conversion Application and the Holding Company Application or for additional information; (v) of the issuance by the Commission, the OTS or any other governmental entity of any order or other action suspending the Offering or the use of the Registration Statement or the Prospectus or any other filing of the Company or the Bank under the Conversion Regulations, the HOLA or other applicable law, or the threat of any such action; (vi) the issuance by the Commission, the OTS or any authority of any stop order suspending the effectiveness of the Registration Statement or of the initiation or threat of initiation or threat of any proceedings for that purpose; or (vii) of the occurrence of any event mentioned in paragraph (g) below. The Company and the Bank will make every reasonable effort (i) to prevent the issuance by the Commission, the OTS or any state authority of any such order and, if any such order shall at any time be issued and (ii) to obtain the lifting thereof at the earliest possible time.

(d) The Company and the Bank will deliver to the Agent and to its counsel two conformed copies of the Registration Statement, the Conversion Application and the Holding Company Application, as originally filed, and of each amendment or supplement thereto, including all exhibits. Further, the Company and the Bank will deliver such additional copies of the foregoing documents to counsel to the Agent as may be required for any NASD and "blue sky" filings.

(e) The Company and the Bank will furnish to the Agent, from time to time during the period when the Prospectus (or any later prospectus related to this offering) is required to be delivered under the 1933 Act or the Securities Exchange Act of 1934 (the "1934 Act"), such number of copies of such Prospectus (as amended or supplemented) as the Agent may reasonably request for the purposes contemplated by the 1933 Act, the 1933 Act Regulations, the 1934 Act or the rules and regulations promulgated under the 1934 Act (the "1934 Act Regulations"). The Company authorizes the Agent to use the Prospectus (as amended or supplemented, if amended or supplemented) in any lawful manner contemplated by the Plan in connection with the sale of the Shares by the Agent.

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(f) The Company and the Bank will comply with any and all material terms, conditions, requirements and provisions with respect to the Offering, and the transactions contemplated thereby, imposed by the Commission, the Agencies or the Conversion Regulations or the HOLA, and by the 1933 Act, the 1933 Act Regulations, the 1934 Act and the 1934 Act Regulations to be complied with prior to or subsequent to the Closing Date and when the Prospectus is required to be delivered, and during such time period the Company and the Bank will comply, at their own expense, with all material requirements imposed upon them by the Commission, the OTS or the Conversion Regulations, the HOLA and by the 1933 Act, the 1933 Act Regulations, the 1934 Act and the 1934 Act Regulations, including, without limitation, Rule 10b-5 under the 1934 Act, in each case as from time to time in force, so far as necessary to permit the continuance of sales or dealing in the Common Stock during such period in accordance with the provisions hereof and the Prospectus.

(g) If, at any time during the period when the Prospectus relating to the Shares is required to be delivered, any event relating to or affecting the Company or the Bank shall occur, as a result of which it is necessary or appropriate, in the opinion of counsel for the Company and the Bank or in the reasonable opinion of the Agent's counsel, to amend or supplement the Registration Statement or Prospectus in order to make the Registration Statement or Prospectus not misleading in light of the circumstances existing at the time the Prospectus is delivered to a purchaser, the Company and the Bank will immediately so inform the Agent and prepare and file, at their own expense, with the Commission and the OTS and furnish to the Agent a reasonable number of copies of an amendment or amendments of, or a supplement or supplements to, the Registration Statement or Prospectus (in form and substance reasonably satisfactory to the Agent and its counsel after a reasonable time for review) which will amend or supplement the Registration Statement or Prospectus so that as amended or supplemented it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances existing at the time the Prospectus is delivered to a purchaser, not misleading. For the purpose of this Agreement, the Company and the Bank each will timely furnish to the Agent such information with respect to itself as the Agent may from time to time reasonably request.

(h) The Company and the Bank will take all necessary actions, in cooperating with the Agent, and furnish to whomever the Agent may direct, such information as may be required to qualify or register the Shares for offering and sale by the Company or to exempt such Shares from registration, or to exempt the Company as a broker-dealer and its officers, directors and employees as broker-dealers or agents under the applicable securities or blue sky laws of such jurisdictions in which the Shares are required under the Conversion Regulations to be sold or as the Agent and the Company and the Bank may reasonably agree upon; provided, however, that the Company shall not be obligated to file any general consent to service of process, to qualify to do business in any jurisdiction in which it is not so qualified, or to register its directors or officers as brokers, dealers, salesmen or agents in any jurisdiction. In each jurisdiction where any of the Shares shall have been qualified or registered as above provided, the Company will make and file such statements and reports in each fiscal period as are or may be required by the laws of such jurisdiction.

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(i) The Bank shall duly establish and maintain the liquidation account for the benefit of Eligible Account Holders and Supplemental Eligible Account Holders in accordance with the requirements of the Conversion Regulations, and such Eligible Account Holders and Supplemental Eligible Account Holders who continue to maintain their deposit accounts in the Bank will have an inchoate interest in their pro rata portion of the liquidation account, which shall have a priority superior to that of the holders of the Shares in the event of a complete liquidation of the Bank.

(j) The Company and the Bank will not sell or issue, contract to sell or otherwise dispose of, for a period of 180 days after the Closing Date, without the Agent's prior written consent, any Common Stock other than the Shares or other than in connection with any plan or arrangement described in the Prospectus, including existing stock benefit plans.

(k) The Company shall register its Common Stock under Section 12(g) of the 1934 Act on or prior to the Closing Date pursuant to the Plan and shall request that such registration be effective prior to or upon completion of the Offering. The Company shall maintain the effectiveness of such registration for not less than three years or such shorter period as may be required by the OTS.

(l) During the period during which the Company's Common Stock is registered under the 1934 Act or for three years from the date hereof, whichever period is greater, the Company will furnish to its shareholders as soon as practicable after the end of each fiscal year an annual report of the Company (including a consolidated balance sheet and statements of consolidated income, shareholders' equity and cash flows of the Company and its subsidiaries as at the end of and for such year, certified by independent public accountants in accordance with Regulation S-X under the 1933 Act and the 1934 Act).

(m) During the period of three years from the date hereof, the Company will furnish to the Agent: (i) as soon as practicable after such information is publicly available, a copy of each report of the Company furnished to or filed with the Commission under the 1934 Act or any national securities exchange or system on which any class of securities of the Company is listed or quoted (including, but not limited to, reports on Forms 10-K, 10-Q and 8-K and all proxy statements and annual reports to stockholders), (ii) a copy of each other non-confidential report of the Company mailed to its stockholders or filed with the Commission, the OTS or any other supervisory or regulatory authority or any national securities exchange or system on which any class of securities of the Company is listed or quoted, each press release and material news items and additional documents and information with respect to the Company or the Bank as the Agent may reasonably request; and (iii) from time to time, such other nonconfidential information concerning the Company or the Bank as the Agent may reasonably request.

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(n) The Company and the Bank will use the net proceeds from the sale of the Shares in the manner set forth in the Prospectus under the caption "How We Intend to Use the Proceeds."

(o) Other than as permitted by the Conversion Regulations, the HOLA, the 1933 Act, the 1933 Act Regulations, and the laws of any state in which the Shares are registered or qualified for sale or exempt from registration, neither the Company nor the Bank will distribute any prospectus, offering circular or other offering material in connection with the offer and sale of the Shares.

(p) The Company will use its best efforts to (i) encourage and assist a market maker to establish and maintain a market for the Shares and (ii) list and maintain quotation of the Shares on the \_\_\_\_\_ effective on or prior to the Closing Date.

(q) The Bank will maintain appropriate arrangements for depositing all funds received from persons mailing subscriptions for or orders to purchase Shares in the Offering on an interest-bearing basis at the rate described in the Prospectus until the Closing Date and satisfaction of all conditions precedent to the release of the Bank's obligation to refund payments received from persons subscribing for or ordering Shares in the Offering in accordance with the Plan and as described in the Prospectus or until refunds of such funds have been made to the persons entitled thereto or withdrawal authorizations canceled in accordance with the Plan and as described in the Prospectus. The Bank will maintain such records of all funds received to permit the funds of each subscriber to be separately insured by the FDIC (to the maximum extent allowable) and to enable the Bank to make the appropriate refunds of such funds in the event that such refunds are required to be made in accordance with the Plan and as described in the Prospectus.

(r) The Company and the Bank will take such actions and furnish such information as are reasonably requested by the Agent in order for the Agent to ensure compliance with the NASD's "Interpretation Relating to Free Riding and Withholding."

(s) Neither the Company nor the Bank will amend the Plan without notifying the Agent prior thereto.

(t) The Company shall assist the Agent, if necessary, in connection with the allocation of the Shares in the event of an oversubscription and shall provide the Agent with any information necessary to assist the Company in allocating the Shares in such event and such information shall be accurate and reliable in all material respects.

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(u) Prior to the Closing Date, the Company and the Bank will inform the Agent of any event or circumstances of which it is aware as a result of which the Registration Statement and/or Prospectus, as then amended or supplemented, would contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein not misleading.

(v) Subsequent to the date the Registration Statement is declared effective by the Commission and prior to the Closing Date, except as otherwise may be indicated or contemplated therein or set forth in an amendment or supplement thereto, neither the Company nor the Bank will have: (i) issued any securities or incurred any liability or obligation, direct or contingent, for borrowed money, except borrowings from the same or similar sources indicated in the Prospectus in the ordinary course of its business, or (ii) entered into any transaction which is material in light of the business and properties of the Company and the Bank, taken as a whole.

(w) The Company will promptly take all necessary action to register as a savings and loan holding company under the HOLA.

(x) The facts and representations provided to Silver, Freedman & Taff, L.L.P. by the Bank and the Company and upon which Silver, Freedman & Taff, L.L.P. will base its opinion under Section 8(c)(1) are and will be truthful, accurate and complete.

**Section 7. Payment of Expenses.** Whether or not the Offering is completed or the sale of the Shares by the Company is consummated, the Company and the Bank jointly and severally agree to pay or reimburse the Agent for its out-of-pocket expenses, and its legal fees (as specified in Section 2) and to indemnify the Agent against certain claims or liabilities, including certain liabilities under the Securities Act, and will contribute to payments the Agent may be required to make in connection with any such claims or liabilities. In the event the Company is unable to sell a minimum of \_\_\_\_\_ Shares, the Company and the Bank shall promptly reimburse the Agent in accordance with Section 2 hereof.

**Section 8. Conditions to the Agent's Obligations.** The obligations of the Agent hereunder, as to the Shares to be delivered at the Closing Date, are subject, to the extent not waived in writing by the Agent, to the condition that all representations and warranties of the Company and the Bank herein are, at and as of the commencement of the Offering and at and as of the Closing Date, true and correct in all material respects, the condition that the Company and the Bank shall have performed all of their obligations hereunder to be performed on or before such dates, and to the following further conditions:

(a) At the Closing Date, the Company and the Bank shall have conducted the Conversion, including the Offering, in all material respects in accordance with the Plan, the Conversion Regulations, the HOLA and all other applicable laws, regulations, decisions and orders, including all terms, conditions, requirements and provisions precedent to the Conversion and the Offering imposed upon them by the OTS.

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(b) The Registration Statement shall have been declared effective by the Commission and the Conversion Application and the Holding Company Application shall be approved by the OTS not later than 5:30 p.m. on the date of this Agreement, or with the Agent's consent at a later time and date; and at the Closing Date, no stop order suspending the effectiveness of the Registration Statement shall have been issued under the 1933 Act or proceedings therefor initiated or threatened by the Commission or any state authority, and no order or other action suspending the authorization of the Prospectus or the consummation of the Conversion shall have been issued or proceedings therefor initiated or, to the Company's or the Bank's knowledge, threatened by the Commission, the OTS or any state authority.

(c) At the Closing Date, the Agent shall have received:

(1) The favorable opinion, dated as of the Closing Date and addressed to the Agent and for its benefit, of Silver, Freedman & Taff, L.L.P., special counsel for the Company and the Bank, in form and substance to the effect that:

(i) The Company has been duly incorporated and is validly existing in good standing as a corporation under the laws of the State of Maryland; the Company is qualified to do business as a foreign corporation in the State of California and in each jurisdiction in which the conduct of its business requires such qualification.

(ii) The Company has corporate power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement and the Prospectus.

(iii) The Bank has been organized and is a validly existing federal savings bank in capital stock form of organization, authorized to conduct its business and own its property as described in the Registration Statement and the Prospectus. All of the outstanding capital stock has been duly authorized, and is validly issued, fully paid and non-assessable and is owned by the Company, free and clear of any liens, encumbrances, claims or other restrictions.

(iv) The Bank is a member of the FHLB-San Francisco. The deposit accounts of the Bank are insured by the FDIC up to the maximum amount allowed under law and no proceedings for the termination or revocation of such insurance are pending or, to such counsel's Actual Knowledge, threatened; the description of the liquidation account as set forth in the Prospectus under the caption "Pacific Trust Bank's Conversion - Effects of the Conversion - Depositor's Rights if We Liquidate," to the extent that such information constitutes matters of law and legal conclusions, has been reviewed by such counsel and is accurately described in all material respects.

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(v) Upon consummation of the Offering, the authorized, issued and outstanding capital stock of the Company will be within the range set forth in the Prospectus under the caption "Capitalization," no shares of Common Stock have been issued prior to the Closing Date; at the time of the Offering, the Shares subscribed for pursuant to the Offering will have been duly and validly authorized for issuance, and when issued and delivered by the Company pursuant to the Plan against payment of the consideration calculated as set forth in the Plan and Prospectus, will be duly and validly issued and fully paid and non-assessable; the issuance of the Shares is not subject to preemptive rights and the terms and provisions of the Shares conform in all material respects to the description thereof contained in the Prospectus. To such counsel's Actual Knowledge, upon the issuance of the Shares, good title to the Shares will be transferred by the Company to the purchasers thereof against payment therefor, subject to such claims as may be asserted against the purchasers thereof by third-party claimants.

(vi) The Bank and the Company have full corporate power and authority to enter into this Agreement and to consummate the transactions contemplated hereby and by the Plan. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, have been duly and validly authorized by all necessary action on the part of the Company and the Bank; and this Agreement is a valid and binding obligation of the Company and the Bank, enforceable against the Company and the Bank in accordance with its terms, except as the enforceability thereof may be limited by (i) bankruptcy, insolvency, reorganization, moratorium, conservatorship, receivership or other similar laws now or hereafter in effect relating to or affecting the enforcement of creditors' rights generally or the rights of creditors of savings institutions, the deposits of which are insured by the FDIC and savings and loan holding companies, (ii) general equitable principles, (iii) laws relating to the safety and soundness of insured depository institutions and their holding companies, and (iv) applicable law or public policy with respect to the indemnification and/or contribution provisions contained herein, including without limitation the provisions of Sections 23A and 23B of the Federal Reserve Act and except that no opinion need be expressed as to the effect or availability of equitable remedies or

injunctive relief (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(vii) The Conversion Application has been approved by the OTS and the Prospectus has been authorized for use by the OTS, and no action has been taken, and to such counsel's Actual Knowledge none is pending or threatened, to revoke any such authorization or approval. The Holding Company Application has been approved by the OTS and no action has been taken, and to such counsel's Actual Knowledge none is pending or threatened, to revoke any such authorization or approval.

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(viii) The Plan has been duly adopted by the required vote of the directors of the Company and the Bank.

(ix) Subject to the satisfaction of the conditions to the OTS approval of the Offering, no further approval, registration, authorization, consent or other order of any federal regulatory agency is required in connection with the execution and delivery of this Agreement, the issuance of the Shares and the consummation of the Offering, except as may be required under the securities or blue sky laws of various jurisdictions (as to which no opinion need be rendered) and except as may be required under the rules and regulations of the NASD (as to which no opinion need be rendered). To such counsel's Actual Knowledge, the Offering has been consummated in all material respects in accordance with Conversion Regulations and the HOLA, except that no opinion is rendered with respect to (a) the Conversion Application, the Holding Company Application, the Registration Statement or Prospectus, which are covered by other clauses of this opinion, (b) the satisfaction of the post-Offering conditions in the Conversion Regulations or in the OTS approvals of the Conversion Application and the Holding Company Application, (c) the securities or "blue sky" laws of various jurisdictions and (d) the rules and regulations of the NASD.

(x) The Registration Statement is effective under the 1933 Act, and no stop order suspending the effectiveness has been issued under the 1933 Act or proceedings therefor initiated or, to such counsel's Actual Knowledge, threatened by the Commission.

(xi) At the time the Conversion Application, including the Prospectus contained therein, was approved by the OTS and the FDIC, the Conversion Application, including the Prospectus contained therein, complied as to form in all material respects with the requirements of the Conversion Regulations, the HOLA and all applicable rules and regulations promulgated thereunder (other than the financial statements, the notes thereto, and other tabular, financial, statistical and appraisal data included therein, as to which no opinion need be rendered). At the time the Holding Company Application, including the Prospectus contained therein, was approved by the OTS, the Holding Company Application, including the Prospectus contained therein, complied as to form in all material respects with the requirements of the Conversion Regulations, the HOLA and all applicable rules and regulations promulgated thereunder (other than the financial statements, the notes thereto, and other tabular, financial, statistical and appraisal data included therein, as to which no opinion need be rendered).

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(xii) At the time that the Registration Statement became effective, (i) the

Registration Statement (as amended or supplemented, if so amended or supplemented) (other than the financial statements, the notes thereto, and other tabular, financial, statistical and appraisal data included therein, as to which no opinion need be rendered), complied as to form in all material respects with the requirements of the 1933 Act and the 1933 Act Regulations, and (ii) the Prospectus (other than the financial statements, the notes thereto, and other tabular, financial, statistical and appraisal data included therein, as to which no opinion need be rendered) complied as to form in all material respects with the requirements of the 1933 Act, the 1933 Act Regulations, the Conversion Regulations, the HOLA and federal law.

(xiii) The terms and provisions of the Shares of the Company conform, in all material respects, to the description thereof contained in the Registration Statement and Prospectus, and the form of certificate used to evidence the Shares is in due and proper form.

(xiv) To such counsel's Actual Knowledge, there are no legal or governmental proceedings pending or threatened which are required to be disclosed in the Registration Statement and Prospectus, other than those disclosed therein, and to such counsel's Actual Knowledge, all pending legal and governmental proceedings to which the Company or the Bank is a party or of which any of their property is the subject, which are not described in the Registration Statement and the Prospectus, including ordinary routine litigation incidental to the Company's or the Bank's business, are, considered in the aggregate, not material.

(xv) To such counsel's Actual Knowledge, there are no material contracts, indentures, mortgages, loan agreements, notes, leases or other instruments required to be described or referred to in the Conversion Application, the Holding Company Application, the Registration Statement or the Prospectus or required to be filed as exhibits thereto other than those described or referred to therein or filed as exhibits thereto in the Conversion Application, the Holding Company Application, the Registration Statement or the Prospectus. The description in the Conversion Application, the Holding Company Application, the Registration Statement and the Prospectus of such documents and exhibits is accurate in all material respects and fairly presents the information required to be shown.

(xvi) To such counsel's Actual Knowledge, the Company and the Bank have conducted the Offering, in all material respects, in accordance with all applicable requirements of the Plan and applicable Illinois and federal law. The Plan complies in all material respects with all applicable federal laws, rules, regulations, decisions and orders including, but not limited to, the Conversion Regulations; no order has been issued by the OTS, the Commission, or any state authority to suspend the Offering or the use of the Prospectus, and no action for such purposes has been instituted or, to such counsel's Actual Knowledge, threatened by the OTS, the Commission, or any state authority and no person has sought to obtain regulatory or judicial review of the final action of the Agencies, approving the Plan, the Conversion Application or the Prospectus.

(xvii) To such counsel's Actual Knowledge, the Company and the Bank have obtained all material federal licenses, permits and other federal governmental authorizations currently required for the conduct of their businesses and all such licenses, permits and other governmental authorizations are in full force and effect, and the Company and the Bank are in all material respects complying therewith.

(xviii) To such counsel's Actual Knowledge, neither the Company nor the Bank is in violation of its articles of incorporation, charter and bylaws, as appropriate or, to such counsel's Actual Knowledge, in default or violation of any obligation, agreement, covenant or condition contained in any contract, indenture, mortgage, loan agreement, note, lease or other instrument to which it is a party or by which

it or its property may be bound, except for such defaults or violations which would not have a material adverse impact on the financial condition or results of operations of the Company and the Bank on a consolidated basis; to such counsel's Actual Knowledge, the execution and delivery of this Agreement, the occurrence of the obligations herein set forth and the consummation of the transactions contemplated herein will not conflict with or constitute a breach of, or default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or the Bank pursuant to any material contract, indenture, mortgage, loan agreement, note, lease or other instrument to which the Company or the Bank is a party or by which any of them may be bound, or to which any of the property or assets of the Company or the Bank are subject (other than the establishment of the liquidation account); and, such action will not result in any violation of the provisions of the articles of incorporation, charter or bylaws of the Company or the Bank or, result in any violation of any applicable federal law, act, regulation (except that no opinion with respect to the securities and blue sky laws of various jurisdictions or the rules or regulations of the NASD need be rendered) or order or court order, writ, injunction or decree.

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(xix) The Company's articles of incorporation and bylaws comply in all material respects with the laws of the State of Maryland; the Bank's charter and bylaws comply in all material respects with the rules and regulations of the OTS.

(xx) To such counsel's Actual Knowledge, neither the Company nor the Bank is in violation of any directive from the OTS, FRB or the FDIC to make any material change in the method of conducting its respective business.

(xxi) The information in the Prospectus under the captions "Summary - The Stock Offering," "Summary - Terms of the Offering," "Summary - Termination of the Offering," "Risk Factors" (relating to takeover defensive provisions), "Pacific Trust Bank's Conversion," "How We Are Regulated," "Restrictions on Acquisition of Pacific Trust Bank" and "Description of Capital Stock of \_\_\_\_\_," to the extent that such information constitutes matters of law, summaries of legal matters, documents or proceedings, or legal conclusions, has been reviewed by such counsel and is correct in all material respects. The discussion of statutes or regulations described or referred to in the Prospectus are accurate summaries and fairly present the information required to be shown. The information under the caption "Pacific Trust Bank's Conversion - Effects of the Conversion - Tax Effects of the Conversion" has been reviewed by such counsel and fairly describes the opinions rendered by them to the Company and the Bank with respect to such matters.

(xxii) The Company will be in good standing as a savings and loan holding company under the HOLA following completion of the Conversion.

(xxiii) In addition, such counsel shall state that during the preparation of the Conversion Application, the Holding Company Application, the Registration Statement and the Prospectus, they participated in conferences with certain officers of, the independent public and internal accountants for, and other representatives of the Company and the Bank, at which conferences the contents of the Conversion Application, the Holding Company Application, the Registration Statement and the Prospectus and related matters were discussed and, while such counsel have not confirmed the accuracy or completeness of or otherwise verified the information contained in the Conversion Application, the Holding Company Application, the Registration Statement or the Prospectus, and do not assume any responsibility for such information, based upon such conferences and a review of documents deemed relevant for the purpose of rendering their view (relying as to materiality as to factual matters on certificates of officers and other factual representations by the Company and the Bank), nothing has come to their attention that would lead them to believe that the

Conversion Application, the Holding Company Application, the Registration Statement, the Prospectus, or any amendment or supplement thereto (other than the financial statements, the notes thereto, and other tabular, financial, statistical and appraisal data included therein as to which no view need be rendered) contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

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In giving such opinion, such counsel may rely as to all matters of fact on certificates of officers or directors of the Company and the Bank and certificates of public officials. The opinion of Silver, Freedman & Taff, L.L.P. shall be limited to matters governed by federal banking and securities laws and by the laws of the State of Maryland, and shall be governed by the Legal Opinion Accord (the "Accord") of the American Bar Association Section of Business Law (1991). The term "Actual Knowledge" as used herein shall have the meaning set forth in the Accord. For purposes of such opinion, no proceedings shall be deemed to be pending, no order or stop order shall be deemed to be issued, and no action shall be deemed to be instituted unless, in each case, a director or executive officer of the Company or the Bank shall have received a copy of such proceedings, order, stop order or action. In addition, such opinion may be limited to present statutes, regulations and judicial interpretations and to facts as they presently exist; in rendering such opinion, such counsel need assume no obligation to revise or supplement it should the present laws be changed by legislative or regulatory action, judicial decision or otherwise; and such counsel need express no view, opinion or belief with respect to whether any proposed or pending legislation, if enacted, or any proposed or pending regulations or policy statements issued by any regulatory agency, whether or not promulgated pursuant to any such legislation, would affect the validity of the Offering or any aspect thereof. Such counsel may assume that any agreement is the valid and binding obligation of any parties to such agreement other than the Company or the Bank.

(d) At the Closing Date, the Agent shall have received the favorable opinion, dated as of the Closing Date, of Jenkins & Gilchrist, A Professional Corporation, the Agent's counsel, with respect to such matters as the Agent may reasonably require. Such opinion may rely upon the opinions of counsel to the Company and the Bank, and as to matters of fact, upon certificates of officers and directors of the Company and the Bank delivered pursuant hereto or as such counsel shall reasonably request.

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(e) At the Closing Date, the Agent shall receive a certificate of the Chief Executive Officer and the Principal Financial and/or Accounting Officer of the Company and the Bank in form and substance reasonably satisfactory to the Agent's Counsel, dated as of such Closing Date, to the effect that: (i) they have carefully reviewed the Prospectus and, in their opinion, at the time the Prospectus became authorized for final use, the Prospectus did not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; (ii) since the date the Prospectus became authorized for final use, no event has occurred which should have been set forth in an amendment or supplement to the Prospectus which has not been so set forth, including specifically, but without limitation, any material adverse change in the condition, financial or otherwise, or in the earnings, capital, properties or business of the Company or the Bank, and the conditions set forth in this Section 8 have been satisfied; (iii) since the respective dates as of which information is given in the Registration Statement and the Prospectus, there has been no material adverse change in the condition, financial or otherwise, or in the earnings, capital or properties of the Company or the Bank, independently, or of the Company and the Bank, considered as one enterprise, whether or not arising in the ordinary course of business; (iv) the representations and warranties in Section 4 are true and correct with the same force and effect as though expressly made at and as of the Closing Date; (v) the Company and the Bank have complied in all material respects with all agreements

and satisfied all conditions on their part to be performed or satisfied at or prior to the Closing Date and will comply in all material respects with all obligations to be satisfied by them after the Offering; (vi) no stop order suspending the effectiveness of the Registration Statement has been initiated or, to the best knowledge of the Company or the Bank, threatened by the Commission or any state authority; (vii) no order suspending the Offering, the Conversion, or the effectiveness of the Prospectus has been issued and no proceedings for that purpose are pending or, to the best knowledge of the Company or the Bank, threatened by the OTS, the Commission, or other governmental entity or state authority; and (viii) to the best knowledge of the Company or the Bank, no person has sought to obtain review of the final action of the OTS approving the Plan.

(f) Prior to and at the Closing Date: (i) in the reasonable opinion of the Agent, there shall have been no material adverse change in the condition, financial or otherwise, or in the earnings or business of the Company or the Bank independently, or of the Company and the Bank, considered as one enterprise, from that as of the latest dates as of which such condition is set forth in the Prospectus other than transactions referred to or contemplated therein; (ii) the Company or the Bank shall not have received from the OTS or the FDIC any direction (oral or written) to make any material change in the method of conducting their business with which it has not complied (which direction, if any, shall have been disclosed to the Agent) or which materially and adversely would affect the business, operations or financial condition or income of the Company and the Bank taken as a whole; (iii) the Company and the Bank shall not have been in default (nor shall an event have occurred which, with notice or lapse of time or both, would constitute a default) under any provision of any agreement or instrument relating to any outstanding indebtedness; (iv) no action, suit or proceeding, at law or in equity or before or by any federal or state commission, board or other administrative agency, shall be pending or, to the knowledge of the Company or the Bank, threatened against the Company or the Bank or affecting any of their properties wherein an unfavorable decision, ruling or finding would materially and adversely affect the business, operations, financial condition or income of the Company and the Bank taken as a whole; and (v) the Shares have been qualified or registered for offering and sale or exempted therefrom under the securities or blue sky laws of the jurisdictions as the Agent shall have reasonably requested and as agreed to by the Company and the Bank.

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(g) Concurrently with the execution of this Agreement, the Agent shall receive a letter from Crowe Chizek dated as of the date of the Prospectus and addressed to the Agent: (i) confirming that Crowe, Chizek and Company LLP is a firm of independent public accounts within the meaning of Rule 101 of the Code of Professional Ethics of the American Institute of Certified Public Accountants and stating in effect that in its opinion the consolidated financial statements, schedules and related notes of the Company as of December 31, 2001, 2000 and 1999 and as are included in the Prospectus and covered by their opinion included therein, comply as to form in all material respects with the applicable accounting requirements and related published rules and regulations of the OTS, FDIC and the 1933 Act; (ii) stating in effect that, on the basis of certain agreed upon procedures (but not an audit in accordance with generally accepted auditing standards) consisting of a reading of the latest available unaudited interim consolidated financial statements of the Company, a reading of the minutes of the meetings of the Board of Directors and stockholders of the Company and consultations with officers of the Company responsible for financial and accounting matters, nothing came to their attention which caused them to believe that: (a) the unaudited financial statements included in the Prospectus are not in conformity with the 1933 Act, applicable accounting requirements of the OTS, FDIC and generally accepted accounting principles applied on a basis substantially consistent with that of the audited financial statements included in the Prospectus; or (b) during the period from the date of the latest unaudited consolidated financial statements included in the Prospectus to a specified date not more than three business days prior to the date of the Prospectus, except as has been described in the Prospectus, there was any increase in borrowings, other than normal deposit fluctuations, by the Bank; or (c) there was any decrease in the consolidated net assets of the Company at the date of such letter as compared with amounts shown in the latest unaudited consolidated statement of condition included in the Prospectus; and (iii) stating that, in addition to the audit referred to in their opinion included in the Prospectus and the performance of the procedures referred to in clause (ii) of this subsection (f), they have compared with the general accounting records of the Company, which are subject to the internal controls of the Company, the accounting system and other data prepared by the Company, directly from such accounting records, to the extent specified in such letter, such amounts and/or percentages set forth in the Prospectus as the Agent may reasonably request; and they have reported on the results of such comparisons.

(h) At the Closing Date, the Agent shall receive a letter dated the Closing Date, addressed to the Agent, confirming the statements made by Crowe Chizek in the letter delivered by it pursuant to subsection (g) of this Section 8, the "specified date" referred to in clause (ii) of subsection (g) thereof to be a date specified in such letter, which shall not be more than three business days prior to the Closing Date.

(i) At the Closing Date, the Agent shall receive a letter from RP Financial LC, dated the date thereof and addressed to counsel for the Agent (i) confirming that said firm is independent of the Company and the Bank and is experienced and expert in the area of corporate appraisals, (ii) stating in effect that the Appraisal prepared by such firm complies in all material respects with the applicable requirements of the Conversion Regulations, and (iii) further stating that their opinion of the aggregate pro forma market value of the Company and the Bank expressed in their Appraisal dated as of \_\_\_\_\_, 2002, and most recently updated, remains in effect.

(j) The Company and the Bank shall not have sustained since the date of the latest financial statements included in the Prospectus any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth or contemplated in the Registration Statement and Prospectus and since the respective dates as of which information is given in the Registration Statement and Prospectus, there shall not have been any change in the long-term debt of the Company or the Bank, or any change, or any development involving a prospective change, in or affecting the general affairs, management, financial position, stockholders' equity or results of operations of the Company or the Bank, otherwise than as set forth or contemplated in the Registration Statement and Prospectus, the effect of which, in any such case described above, is in the Agent's reasonable judgment sufficiently material and adverse as to make it impracticable or inadvisable to proceed with the Subscription Offering or the delivery of the Shares on the terms and in the manner contemplated in the Prospectus.

(k) At or prior to the Closing Date, the Agent shall receive: (i) a copy of the letters from the OTS approving the Conversion Application and authorizing the use of the Prospectus; (ii) a copy of the order from the Commission declaring the Registration Statement effective; (iii) certificate of good standing from the State of Maryland evidencing the good standing of the Company; (iv) a certificate from the FDIC evidencing the Bank's insurance of accounts; (v) a certificate of the FHLB-San Francisco evidencing the Bank's membership thereof; (vi) a copy of the Bank's federal stock charter; (vii) a certified copy of the articles of incorporation from the State of Maryland and (viii) a copy of the letter from the OTS approving the Holding Company Application.

(l) Subsequent to the date hereof, there shall not have occurred any of the following: (i) a suspension or limitation in trading in securities generally on the New York Stock Exchange or in the over-the-counter market, or quotations halted generally on the Nasdaq, or minimum or maximum prices for trading have been fixed, or maximum ranges for prices for securities have been required by either of such exchanges or the NASD or by order of the Commission or any other governmental authority; (ii) a general moratorium on the operations of commercial banks, federal savings institutions or a general moratorium on the withdrawal of deposits from commercial banks or federal savings institutions declared by federal authorities; (iii) the engagement by the United States in hostilities which have resulted in the declaration, on or after the date hereof, of a national emergency or war; or (iv) a material decline in the price of equity or debt securities if the effect of such a declaration or decline, in the Agent's reasonable judgment, makes it impracticable or inadvisable to proceed with the Offering or the delivery of the shares on the terms and in the manner contemplated in the Registration Statement and the Prospectus.

(m) At or prior to the Closing Date, counsel to the Agent shall have been furnished with such documents and opinions as they may reasonably require for the purpose of enabling them to pass upon the sale of the Shares as herein contemplated and related proceedings or in order to evidence the occurrence or completeness of any of the representations or warranties, or the fulfillment of any of the conditions, herein contained; and all proceedings taken by the Company or the Bank in connection with the Offering and the

sale of the Shares as herein contemplated shall be satisfactory in form and substance to the Agent and its counsel.

## **Section 9. Indemnification.**

(a) The Company and the Bank jointly and severally agree to indemnify and hold harmless the Agent, its respective officers and directors, employees and agents, and each person, if any, who controls the Agent within the meaning of Section 15 of the 1933 Act or Section 20(a) of the 1934 Act, against any and all loss, liability, claim, damage or expense whatsoever (including but not limited to settlement expenses), joint or several, that the Agent or any of them may suffer or to which the Agent and any such persons may become subject under all applicable federal or state laws or otherwise, and to promptly reimburse the Agent and any such persons upon written demand for any expense (including reasonable fees and disbursements of counsel) incurred by the Agent or any of them in connection with investigating, preparing or defending any actions, proceedings or claims (whether commenced or threatened) to the extent such losses, claims, damages, liabilities or actions: (i) arise out of or are related to the Conversion or any action taken by the Agent where acting as agent of the Company and the Bank, including without limitation, the denial or reduction of a subscription or order to purchase Shares based upon the deposit records of the Bank or otherwise; (ii) arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or any amendment or supplement thereto), preliminary or final Prospectus (or any amendment or supplement thereto), the Conversion Application and Holding Company Application (or any amendment or supplement thereto), or any instrument or document executed by the Company or the Bank or based upon written information supplied by the Company or the Bank filed in any state or jurisdiction to register or qualify any or all of the Shares or to claim an exemption therefrom, or provided to any state or jurisdiction to exempt the Company as a broker-dealer or its

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officers, directors and employees as broker-dealers or agent, under the securities laws thereof (collectively, the "Blue Sky Application"), or any document, advertisement, oral statement or communication ("Sales Information") prepared, made or executed by or on behalf of the Company or the Bank with their consent or based upon written or oral information furnished by or on behalf of the Company or the Bank, whether or not filed in any jurisdiction, in order to qualify or register the Shares or to claim an exemption therefrom under the securities laws thereof; (iii) arise out of or are based upon the omission or alleged omission to state in any of the foregoing documents or information, a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; or (iv) arise from any theory of liability whatsoever relating to or arising from or based upon the Registration Statement (or any amendment or supplement thereto), preliminary or final Prospectus (or any amendment or supplement thereto), the Conversion Application and the Holding Company Application (or any amendment or supplement thereto), any Blue Sky Application or Sales Information or other documentation distributed in connection with the Offering; provided, however, that no indemnification is required under this paragraph (a) to the extent such losses, claims, damages, liabilities or actions arise out of or are based upon any untrue material statement or alleged untrue material statement in, or material omission or alleged material omission from, the Registration Statement (or any amendment or supplement thereto), preliminary or final Prospectus (or any amendment or supplement thereto), the Conversion Application (or any amendment or supplement thereto), any Blue Sky Application or Sales Information made in reliance upon and in conformity with information furnished in writing to the Company or the Bank by the Agent or its counsel regarding the Agent provided, that it is agreed and understood that the only information furnished in writing to the Company or the Bank by the Agent regarding the Agent is set forth in the Prospectus under the caption "Allied First Bank's Conversion - Marketing Arrangements;" and, provided further, that such indemnification shall be to the extent permitted by the OTS and the FDIC.

(b) The Agent agrees to indemnify and hold harmless the Company and the Bank, their directors and officers and each person, if any, who controls the Company or the Bank within the meaning of Section 15 of the 1933 Act or Section 20(a) of the 1934 Act against any and all loss, liability, claim, damage or expense whatsoever (including but not limited to settlement expenses), joint or several, which they, or any of them, may suffer or to which they, or any of them may become subject under all applicable federal and state laws or otherwise, and to promptly reimburse the Company, the Bank, and any such persons upon written demand for any expenses (including reasonable fees and disbursements of counsel) incurred by them, or any of them, in connection with investigating, preparing to defend or defending any actions, proceedings or claims (whether commenced or threatened) to the extent such losses, claims, damages, liabilities or actions: (i) arise out of or are based upon any untrue statement or alleged untrue statement of

a material fact contained in the Registration Statement (or any amendment or supplement thereto), the Conversion Application, the Holding Company Application (or any amendment or supplement thereto), the

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preliminary or final Prospectus (or any amendment or supplement thereto), any Blue Sky Application or Sales Information, (ii) are based upon the omission or alleged omission to state in any of the foregoing documents a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, or (iii) arise from any theory of liability whatsoever relating to or arising from or based upon the Registration Statement (or any amendment or supplement thereto), preliminary or final Prospectus (or any amendment or supplement thereto), the Conversion Application, the Holding Company Application (or any amendment or supplement thereto), or any Blue Sky Application or Sales Information or other documentation distributed in connection with the Offering; provided, however, that the Agent's obligations under this Section 9(b) shall exist only if and only to the extent (i) that such untrue statement or alleged untrue statement was made in, or such material fact or alleged material fact was omitted from, the Registration Statement (or any amendment or supplement thereto), the preliminary or final Prospectus (or any amendment or supplement thereto), the Conversion Application, the Holding Company Application (or any amendment or supplement thereto), or any Blue Sky Application or Sales Information in reliance upon and in conformity with information furnished in writing to the Company or the Bank by the Agent or its counsel regarding the Agent, provided, that it is agreed and understood that the only information furnished in writing to the Company or the Bank by the Agent regarding the Agent is set forth in the Prospectus under the caption "Allied First Bank's Conversion - Marketing Arrangements."

(c) Each indemnified party shall give prompt written notice to each indemnifying party of any action, proceeding, claim (whether commenced or threatened), or suit instituted against it in respect of which indemnity may be sought hereunder, but failure to so notify an indemnifying party shall not relieve it from any liability which it may have on account of this Section 9 or otherwise. An indemnifying party may participate at its own expense in the defense of such action. In addition, if it so elects within a reasonable time after receipt of such notice, an indemnifying party, jointly with any other indemnifying parties receiving such notice, may assume defense of such action with counsel chosen by it and approved by the indemnified parties that are defendants in such action, unless such indemnified parties reasonably object to such assumption on the ground that there may be legal defenses available to them that are different from or in addition to those available to such indemnifying party. If an indemnifying party assumes the defense of such action, the indemnifying parties shall not be liable for any fees and expenses of counsel for the indemnified parties incurred thereafter in connection with such action, proceeding or claim, other than reasonable costs of investigation. In no event shall the indemnifying parties be liable for the fees and expenses of more than one separate firm of attorneys (and any special counsel that said firm may retain) for each indemnified party in connection with any one action, proceeding or claim or separate but similar or related actions, proceedings or claims in the same jurisdiction arising out of the same general allegations or circumstances.

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(d) The agreements contained in this Section 9 and in Section 10 hereof and the representations and warranties of the Company and the Bank set forth in this Agreement shall remain operative and in full force and effect regardless of: (i) any investigation made by or on behalf of agent or their officers, directors or controlling persons, agent or employees or by or on behalf of the Company or the Bank or any officers, directors or controlling persons, agent or employees of the Company or the Bank; (ii) delivery of and payment hereunder for the Shares; or (iii) any termination of this Agreement.

**Section 10. Contribution.** In order to provide for just and equitable contribution in circumstances in which the indemnification provided for in Section 9 is due in accordance with its terms but is for any reason held by a court to be unavailable from the Company, the Bank or the Agent, the Company, the Bank and the Agent (provided, in the case of the Bank, that such contribution is in compliance with the requirements of Section 23A of the Federal Reserve Act and is consistent with any regulations or written interpretations regarding Section 23A of the Federal Reserve Act issued by regulatory agencies having jurisdiction with respect to such section generally or the Bank in particular, including without limitation, any opinion issued by the

Federal Reserve Board in response to a request for interpretive advice submitted by counsel to the Bank) shall contribute to the aggregate losses, claims, damages and liabilities (including any investigation, legal and other expenses incurred in connection with, and any amount paid in settlement of, any action, suit or proceeding of any claims asserted, but after deducting any contribution received by the Company, the Bank or the Agent from persons other than the other party thereto, who may also be liable for contribution) in such proportion so that the Agent is responsible for that portion represented by the percentage that the fees paid to the Agent pursuant to Section 2 of this Agreement (not including expenses) bears to the gross proceeds received by the Company from the sale of the Shares in the Offering, and the Company and the Bank shall be responsible for the balance. If, however, the allocation provided above is not permitted by applicable law or if the indemnified party failed to give the notice required under Section 9 above, then each indemnifying party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative fault of the Company and the Bank on the one hand and the Agent on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions, proceedings or claims in respect thereto), but also the relative benefits received by the Company and the Bank on the one hand and the Agent on the other from the Offering (before deducting expenses). The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company and/or the Bank on the one hand or the Agent on the other and the parties' relative intent, good faith, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company, the Bank and the Agent agree that it would not be just and equitable if contribution pursuant to this Section 10 were determined by pro-rata allocation or by any other method of allocation which does not take into account the equitable considerations referred to above in this Section 10.

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The amount paid or payable by an indemnified party as a result of the losses, claims, damages or liabilities (or actions, proceedings or claims in respect thereof) referred to above in this Section 10 shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action, proceeding or claim. It is expressly agreed that the Agent shall not be liable for any loss, liability, claim, damage or expense or be required to contribute any amount which in the aggregate exceeds the amount paid (excluding reimbursable expenses) to the Agent under this Agreement. It is understood that the above stated limitation on the Agent's liability is essential to the Agent and that the Agent would not have entered into this Agreement if such limitation had not been agreed to by the parties to this Agreement. No person found guilty of any fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any person who was not found guilty of such fraudulent misrepresentation. The obligations of the Company and the Bank under this Section 10 and under Section 9 shall be in addition to any liability which the Company and the Bank may otherwise have. For purposes of this Section 10, each of the Agent's, the Company's or the Bank's officers and directors and each person, if any, who controls the Agent or the Company or the Bank within the meaning of the 1933 Act and the 1934 Act shall have the same rights to contribution as the Agent, the Company or the Bank. Any party entitled to contribution, promptly after receipt of notice of commencement of any action, suit, claim or proceeding against such party in respect of which a claim for contribution may be made against another party under this Section 10, will notify such party from whom contribution may be sought, but the omission to so notify such party shall not relieve the party from whom contribution may be sought from any other obligation it may have hereunder or otherwise than under this Section 10.

**Section 11. Survival of Agreements, Representations and Indemnities.** The respective indemnities of the Company, the Bank and the Agent and the representations and warranties and other statements of the Company, the Bank and the Agent set forth in or made pursuant to this Agreement shall remain in full force and effect, regardless of any termination or cancellation of this Agreement or any investigation made by or on behalf of the Agent, the Company, the Bank or any controlling person referred to in Section 9 hereof, and shall survive the issuance of the Shares, and any successor or assign of the Agent, the Company, the Bank, and any such controlling person shall be entitled to the benefit of the respective agreements, indemnities, warranties and representations.

**Section 12. Termination.** The Agent may terminate this Agreement by giving the notice indicated below in this Section 12 at any time after this Agreement becomes effective as follows:

- (a) In the event the Company fails to sell the required minimum number of the Shares by \_\_\_\_\_, and in accordance with the provisions of the Plan or as required by the Conversion Regulations, and applicable law, this Agreement shall terminate upon refund by the Company to each person who has subscribed for or ordered any of the Shares the full amount which it may have received from such person, together with interest as provided in the Prospectus, and no party to this Agreement shall have any obligation to the other hereunder, except for payment by the Company and/or the Bank as set forth in Sections 2(a), 7, 9 and 10 hereof.

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(b) If any of the conditions specified in Section 8 shall not have been fulfilled when and as required by this Agreement unless waived in writing, or by the Closing Date, this Agreement and all of the Agent's obligations hereunder may be cancelled by the Agent by notifying the Company and the Bank of such cancellation in writing or by telegram at any time at or prior to the Closing Date, and any such cancellation shall be without liability of any party to any other party except as otherwise provided in Sections 2(a), 7, 9 and 10 hereof.

(c) If the Agent elects to terminate this Agreement as provided in this Section, the Company and the Bank shall be notified promptly by telephone or telegram, confirmed by letter.

The Company and the Bank may terminate this Agreement in the event the Agent is in material breach of the representations and warranties or covenants contained in Section 5 and such breach has not been cured within a reasonable period of time after the Company and the Bank have provided the Agent with notice of such breach.

This Agreement may also be terminated by mutual written consent of the parties hereto.

**Section 13. Notices.** All communications hereunder, except as herein otherwise specifically provided, shall be mailed in writing and if sent to the Agent shall be mailed, delivered or telegraphed and confirmed to Keefe, Bruyette & Woods, 211 Bradenton, Dublin, Ohio 43017-3514, Attention: Douglas L. Reidel, Managing Director (with a copy to Jenkins & Gilchrist, P.C., Attention: Richard S. Garabedian) and, if sent to the Company and the Bank, shall be mailed, delivered or telegraphed and confirmed to the Company and the Bank at 610 Bay Boulevard, Chula Vista, California 91910, Attention: Hans Ganz, President (with a copy to Silver, Freedman & Taff, L.L.P., Attention: Martin L. Meyrowitz).

**Section 14. Parties.** The Company and the Bank shall be entitled to act and rely on any request, notice, consent, waiver or agreement purportedly given on behalf of the Agent when the same shall have been given by the undersigned. The Agent shall be entitled to act and rely on any request, notice, consent, waiver or agreement purportedly given on behalf of the Company or the Bank, when the same shall have been given by the undersigned or any other officer of the Company or the Bank. This Agreement shall inure solely to the benefit of, and shall be binding upon, the Agent, the Company, the Bank, and their respective successors and assigns, and no other person shall have or be construed to have any legal or equitable right, remedy or claim under or in respect of or by virtue of this Agreement or any provision herein contained. It is understood and agreed that this Agreement is the exclusive agreement among the parties hereto, and supersedes any prior agreement among the parties and may not be varied except in writing signed by all the parties.

**Section 15. Closing.** The closing for the sale of the Shares shall take place on the Closing Date at such location as mutually agreed upon by the Agent and the Company and the Bank. At the closing, the Company and the Bank shall deliver to the Agent in next day funds the commissions, fees and expenses due and owing to the Agent as set forth in Sections 2 and 7 hereof and the opinions and certificates required hereby and other documents deemed reasonably necessary by the Agent shall be executed and delivered to effect the sale of the Shares as contemplated hereby and pursuant to the terms of the Prospectus.

**Section 16. Partial Invalidity.** In the event that any term, provision or covenant herein or the application thereof to any circumstance or situation shall be invalid or unenforceable, in whole or in part, the remainder hereof and the application of said term, provision or covenant to any other circumstances or situation shall not be affected thereby, and each term, provision or covenant herein shall be valid and enforceable to the full extent permitted by law.

**Section 17. Counterparts.** This Agreement may be executed in separate counterparts, each of which so executed and delivered shall be an original, but all of which together shall constitute but one and the same instrument.

If the foregoing correctly sets forth the arrangement among the Company, the Bank and the Agent, please indicate acceptance thereof in the space provided below for that purpose, whereupon this letter and the Agent's acceptance shall constitute a binding agreement.

**Section 18. Entire Agreement.** This Agreement, including schedules and exhibits hereto, which are integral parts hereof and incorporated as though set forth in full, constitutes the entire agreement between the parties pertaining to the subject matter hereof superseding any and all prior or contemporaneous oral or prior written agreements, proposals, letters of intent and understandings, and cannot be modified, changed, waived or terminated except by a writing which expressly states that it is an

amendment, modification or waiver, refers to this Agreement and is signed by the party to be charged. No course of conduct or dealing shall be construed to modify, amend or otherwise affect any of the provisions hereof.

**Section 19. Headings.** Headings on the Sections in this Agreement are for reference purposes only and shall not be deemed to have any substantive effect.

**Section 20. Delivery by Telecopier.** This Agreement shall become effective upon execution and delivery hereof by all the parties hereto; delivery of this Agreement may be made by telecopier to the parties with original copies promptly to follow by overnight courier.

**Section 21. Construction.** This Agreement has been negotiated by the parties and their respective counsel. This Agreement will be fairly interpreted in accordance with its terms and without any strict construction in favor of or against either party. This Agreement shall be construed in accordance with the laws of the State of New York.

**Section 22. Exhibits.** Each and all of the Exhibits referred to herein and attached hereto are hereby incorporated into this Agreement for all purposes as fully as if set forth herein.

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**Section 23. Arbitration.** Any disputes, controversies or claims arising out of or relating to the negotiations, execution, delivery, performance or breach of this Agreement shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The place of arbitration shall be New York City, New York. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. If the amount claimed or disputed in such arbitration is \$100,000 or more, the arbitration shall be conducted before a panel of three arbitrators. In any arbitration proceeding hereunder or any action to enforce its rights hereunder, the prevailing party shall be awarded the costs (including reasonable attorneys' fees) incurred by it related to such proceeding or action. The arbitrator(s) shall have power to enter such orders by way of interim awards, and they shall be enforceable in court.

Very truly yours,

**FIRST PACTRUST BANCORP, INC.**

**PACIFIC TRUST BANK**

By Its Authorized  
Representative

By Its Authorized  
Representative:

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Hans Ganz  
President and Chief Executive Officer

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Hans Ganz  
President and Chief Executive Officer

Accepted as of the date first above written

**KEEFE, BRUYETTE & WOODS, INC.**

By Its Authorized  
Representative:

---

Douglas L. Reidel  
Managing Director

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**FIRST PACTRUST BANCORP, INC.**

Up to \_\_\_\_\_ Shares (Anticipated Maximum)  
(Par Value \$0.01 Per Share)

Selected Dealers' Agreement

\_\_\_\_\_, 2001

Gentlemen:

We have agreed to assist Pacific Trust Bank (the "Bank"), a federal mutual savings bank, in connection with the offer and sale of up to \_\_\_\_\_ shares of the conversion common stock, par value \$0.01 per share (the "Common Stock") of First PacTrust Bancorp, Inc. (the "Company"), a Maryland corporation, to be issued in connection with the conversion of the Bank. The total number of shares of Common Stock to be offered may be decreased to a minimum of shares. The price per share has been fixed at \$10.00. The Common Stock, the number of shares to be issued, and certain of the terms on which they are being offered, are more fully described in the enclosed Prospectus dated \_\_\_\_\_, 2001 (the "Prospectus"). In connection with the Conversion, the Company, on a best efforts basis is offering for sale between \$\_\_\_\_\_ of shares and \$\_\_\_\_\_ of shares (the "Shares") of the Common Stock, in a Subscription Offering. Any Shares not sold in the Subscription Offering will be offered to the general public in a community offering (the "Community Offering").

The Subscription and Community Offerings are being conducted under a Plan of Conversion (the "Plan") adopted by the Bank pursuant to which the Bank intends to convert from a federal mutual savings bank to a federal stock savings bank and concurrent formation of a Maryland holding company (the "Company") (the "Conversion"). As part of the Conversion, the Bank will amend its federal mutual savings bank charter to read in the form of a federal stock savings bank charter, sell all its to-be-issued common stock to the Company which in turn will sell the Common Stock to the public as provided for in the Plan. The Subscription and Community Offerings are further being conducted in accordance with the regulations of the Office of Thrift Supervision subject to the restrictions contained in the Plan.

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The Common Stock is also being offered in accordance with the Plan by broker/dealers licensed by the National Association of Securities Dealers, Inc. ("NASD") which have been approved by the Bank ("Approved Brokers").

We are offering the selected dealers (of which you are one) the opportunity to participate in the solicitation of offers to buy the Common Stock and we will pay you a fee in the amount of 5.5 percent of the dollar amount of the Common Stock sold on behalf of the Company by you, as evidenced by the authorized designation of your firm on the order form or forms for payment therefor to the special account established by the Bank for the purpose of holding such funds. It is understood, of course, that payment of your fee will be made only out of compensation received by us for the Common Stock sold on behalf of the Company by you, as evidenced in accordance with the preceding sentence. As soon as practicable after the closing date of the offering, we will remit to you, only out of our compensation as provided above, the fees to which you are entitled hereunder.

Each order form for the purchase of Common Stock must set forth the identity and address of each person to whom the certificates for such Common Stock should be issued and delivered. Such order form also must clearly identify your firm in order for you to receive compensation. You shall instruct any subscriber who elects to send his order form to you to make any accompanying check payable to "Allied First Bancorp, Inc."

This offer is made subject to the terms and conditions herein set forth and is made only to selected dealers who are

members in good standing of the NASD who are to comply with all applicable rules of the NASD, including, without limitation, the NASD's Interpretation With Respect to Free-Riding and Withholding and Section 24 of Article III of the NASD's Rules of Fair Practice.

Orders for Common Stock will be subject to confirmation and we, acting on behalf of the Company and the Bank, reserve the right in our unfettered discretion to reject any order in whole or in part, to accept or reject orders in the order of their receipt or otherwise, and to allot. Neither you nor any other person is authorized by the Company and the Bank, or by us to give any information or make any representations other than those contained in the Prospectus in connection with the sale of any of the Common Stock. No selected dealer is authorized to act as agent for us when soliciting offers to buy the Common Stock from the public or otherwise. No selected dealer shall engage in any stabilizing (as defined in Rule 10b-7 promulgated under the Securities Exchange Act of 1934) with respect to the Company's Common Stock during the offering.

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We and each selected dealer assisting in selling Common Stock pursuant hereto agree to comply with the applicable requirements of the Securities Exchange Act of 1934 and applicable state rules and regulations. Each customer-carrying selected dealer that is not a \$250,000 net capital reporting broker/dealer agrees that it will not use a sweep arrangement and that it will transmit all customer checks by noon of the next business day after receipt thereof. In addition, we and each selected dealer confirm that the Securities and Exchange Commission interprets Rule 15c2-8 promulgated under the Securities Exchange Act of 1934 as requiring that a Prospectus be supplied to each person who is expected to receive a confirmation of sale 48 hours prior to delivery of such person's order form.

We and each selected dealer further agree that to the extent that your customers desire to pay for shares with funds held by or to be deposited with us, in accordance with the interpretations of the Securities and Exchange Commission of Rule 15c2-4 promulgated under the Securities Exchange Act of 1934, either (a) upon receipt of an executed order form or direction to execute an order form on behalf of a customer to forward the offering price of the Common Stock ordered on or before twelve noon Missouri time of the next business day following receipt or execution of an order form by us to the Company for deposit in a segregated account or (b) to solicit indications of interest in which event (i) we will subsequently contact any customer indicating interest to confirm the interest and give instructions to execute and return an order form or to receive authorization to execute the order form on the customer's behalf, (ii) we will mail acknowledgments of receipt of orders to each customer confirming interest on the business day following such confirmation, (iii) we will debit accounts of such customers on the fifth business day (the "Debit Date") following receipt of the confirmation referred to in (i), and (iv) we will forward complete order forms together with such funds to the Company on or before twelve noon on the next business day and each selected dealer acknowledges that if the procedure in (b) is adopted, our customers' funds are not required to be in their accounts until the Debit Date.

Unless earlier terminated by us, this Agreement shall terminate upon the closing date of the Conversion. We may terminate this Agreement or any provisions hereof any time by written or telegraphic notice to you. Of course, our obligations hereunder are subject to the successful completion of the Conversion.

You agree that at any time or times prior to the termination of this Agreement you will, upon our request, report to us the number of shares of Common Stock sold on behalf of the Company by you under this Agreement.

We shall have full authority to take such actions as we may deem advisable in respect of all matters pertaining to the offering. We shall be under no liability to you except for lack of good faith and for obligations expressly assumed by us in this Agreement.

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Upon application to us, we will inform you as to the states in which we believe the Common Stock has been qualified for sale under, or are exempt from the requirements of, the respective blue sky laws of such states, but we assume no responsibility or obligation as to your rights to sell Common Stock in any state.

Additional copies of the Prospectus and any supplements thereto will be supplied in reasonable quantities upon request.

Any notice from us to you shall be deemed to have been duly given if mailed, telephoned, or telegraphed to you at the address to which this Agreement is mailed.

This Agreement shall be construed in accordance with the laws of the State of Ohio.

Please confirm your agreement hereto by signing and returning the confirmations accompanying this letter at once to us at Keefe, Bruyette & Woods, Inc., 211 Bradenton, Dublin, Ohio 43017. The enclosed duplicate copy will evidence the agreement between us.

**KEEFE, BRUYETTE & WOODS, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

CONFIRMED AS OF:

\_\_\_\_\_, 2001

\_\_\_\_\_  
(Name of Dealer)

By: \_\_\_\_\_  
Its: \_\_\_\_\_

# ARTICLES OF INCORPORATION

OF

## FIRST PACTRUST BANCORP, INC.

The Undersigned, Hans R. Ganz, whose address is 610 Bay Boulevard, Chula Vista, California 91910, being at least 18 years of age, acting as sole incorporator, does hereby form a corporation under the General Laws of the State of Maryland having the following Articles:

**ARTICLE 1. Name.** The name of the corporation is First PacTrust Bancorp, Inc. (herein the "Corporation").

**ARTICLE 2. Principal Office.** The address of the principal office of the Corporation in the State of Maryland is c/o The Corporation Trust Incorporated, 300 East Lombard Street, Baltimore, Maryland 21202.

**ARTICLE 3. Purpose.** The purpose of the Corporation is to engage in any lawful act or activity for which the corporation may be organized under the General Corporation Law of the State of Maryland (the "MGCL").

**ARTICLE 4. Resident Agent.** The name and address of the registered agent of the Corporation in the State of Maryland is The Corporation Trust Incorporated, 300 East Lombard Street, Baltimore, Maryland 21202. Said resident agent is a Maryland corporation.

**ARTICLE 5. Initial Directors.** The number of directors constituting the initial board of directors of the Corporation is six, which number may be increased or decreased pursuant to the Bylaws of the Corporation and Article 9 of the Charter (which shall include these Articles of Incorporation and any subsequent amendment thereto), but shall never be less than the minimum number permitted by the MGCL now or hereafter in force. The names of the persons who are to serve as directors until their successors are elected and qualified, are:

| Name             | Term to Expire in |
|------------------|-------------------|
| Class I          |                   |
| Hans R. Ganz     | 2003              |
| Donald Purdy     | 2003              |
| Class II         |                   |
| Alvin L. Majors  | 2004              |
| Donald Whitacre  | 2004              |
| Class III        |                   |
| Francis P. Burke | 2005              |
| Kenneth Scholz   | 2005              |

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## ARTICLE 6.

**A. Capital Stock.** The total number of shares of capital stock of all classes which the Corporation has authority to issue is twenty-five million (25,000,000) shares, initially classified as follows:

1. Five million (5,000,000) shares of preferred stock, par value one cent (\$.01) per share (the "Preferred Stock"); and

2. Twenty million (20,000,000) shares of common stock, par value one cent (\$.01) per share (the "Common Stock").

The aggregate par value of all the authorized shares of capital stock is two hundred fifty thousand dollars (\$250,000). Except to the extent required by governing law, rule or regulation, the shares of capital stock may be issued from time to time by the Board of Directors without further approval of the stockholders of the Corporation. The Corporation shall have the authority to purchase its capital stock out of funds lawfully available therefor which funds shall include, without limitation, the Corporation's unreserved and unrestricted capital surplus. If shares of one class of stock are classified or reclassified into shares of another class of stock by the Board of Directors pursuant to this Article 6, the number of authorized shares of the former class shall be automatically decreased and the number of shares of the latter class shall be automatically increased, in each case by the number of shares so classified or reclassified, so that the aggregate number of shares of stock of all classes that the Corporation has authority to issue shall not be more than the total number of shares of stock set forth in the first sentence of this paragraph. A majority of the entire Board of Directors, without action by the stockholders, may amend the Charter to increase or decrease the aggregate number of shares of stock or the number of shares of stock of any class or series that the Corporation has authority to issue.

**B. Reclassification of Capital Stock.** The Board of Directors may classify or reclassify any unissued shares of capital stock from time to time into one or more classes or series of stock by setting or changing in one or more respects the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends, qualifications or terms and conditions of redemption of such shares.

**C. Common Stock.** Except as provided under the terms of any stock classified or reclassified by the Board of Directors pursuant to this Article 6 and as limited by Section F of this Article 6, the exclusive voting power shall be vested in the Common Stock, the holders thereof being entitled to one vote for each share of such Common Stock standing in the holder's name on the books of the Corporation. Subject to any rights and preferences of any class of stock having preferences over the Common Stock, holders of Common Stock shall be entitled to such dividends as may be declared by the Board of Directors out of funds lawfully available therefor. Upon any liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary, holders of Common Stock shall be entitled to receive pro rata the remaining assets of the Corporation after payment or provision for payment of all debts and liabilities of the Corporation and payment or provision for payment of any amounts owed to the holders of any class of stock

having preference over the Common Stock on distributions on liquidation, dissolution or winding up of the Corporation.

**D. Preferred Stock and Other Stock.** Subject to the foregoing, the power of the Board of Directors to classify and reclassify any of the shares of capital stock shall include, without limitation, authority to classify or reclassify any unissued shares of such stock into a class or classes of Preferred Stock, preference stock, special stock or other stock (such preference, special or other stock being collectively referred to as "Other Stock"), and to divide and classify shares of any class into one or more series of such class, by determining, fixing, or altering one or more of the following:

1. The distinctive designation of such class or series and the number of shares to constitute such class or series; provided that, unless otherwise prohibited by the terms of such or any other class or series, the number of shares of any class or series may be decreased by the Board of Directors in connection with any classification or reclassification of unissued shares and the number of shares of such class or series may be increased by the Board of Directors in connection with any such classification or reclassification, and any shares of any class or series which have been redeemed, purchased, otherwise acquired or converted into shares of Common Stock or any other class or series shall become part of the authorized capital stock and be subject to classification and reclassification as provided in this sub-paragraph.

2. Whether or not and, if so, the rates, amounts and times at which, and the conditions under which, dividends shall be payable on shares of such class or series, whether any such dividends shall rank senior or junior to or on a parity with the dividends payable on any other class or series of stock, and the status of any such dividends as cumulative, cumulative to a limited extent or non-cumulative and as participating or non-participating.

3. Whether or not shares of such class or series shall have voting rights, in addition to any voting rights provided by law and, if so, the terms of such voting rights.

4. Whether or not shares of such class or series shall have conversion or exchange privileges and, if so, the terms and conditions thereof, including provision for adjustment of the conversion or exchange rate in such events or at such times as the Board of Directors shall determine.

5. Whether or not shares of such class or series shall be subject to redemption and, if so, the terms and conditions of such redemption, including the date or dates upon or after which they shall be redeemable and the amount per share

payable in case of redemption, which amount may vary under different conditions and at different redemption dates; and whether or not there shall be any sinking fund or purchase account in respect thereof, and if so, the terms thereof.

6. The rights of the holders of shares of such class or series upon the liquidation, dissolution or winding up of the affairs of, or upon any distribution of the assets of, the Corporation, which rights may vary depending upon whether such liquidation, dissolution

or winding up is voluntary or involuntary and, if voluntary, may vary at different dates, and whether such rights shall rank senior or junior to or on a parity with such rights of any other class or series of stock.

7. Whether or not there shall be any limitations applicable, while shares of such class or series are outstanding, upon the payment of dividends or making of distributions on, or the acquisition of, or the use of moneys for purchase or redemption of, any stock of the Corporation, or upon any other action of the Corporation, including action under this subparagraph, and, if so, the terms and conditions thereof.

8. Any other preferences, rights, restrictions, including restrictions on transferability, and qualifications of shares of such class or series, not inconsistent with law and the Charter.

**E. Ranking of Capital Stock.** For the purposes hereof and of any articles supplementary to the Charter providing for the classification or reclassification of any shares of capital stock or of any other Charter document of the Corporation (unless otherwise provided in any such articles or document), any class or series of stock of the Corporation shall be deemed to rank:

1. prior to another class or series either as to dividends or upon liquidation, if the holders of such class or series shall be entitled to the receipt of dividends or of amounts distributable on liquidation, dissolution or winding up, as the case may be, in preference or priority to holders of such other class or series;

2. on a parity with another class or series either as to dividends or upon liquidation, whether or not the dividend rates, dividend payment dates or redemption or liquidation price per share thereof be different from those of such others, if the holders of such class or series of stock shall be entitled to receipt of dividends or amounts distributable upon liquidation, dissolution or winding up, as the case may be, in proportion to their respective dividend rates or redemption or liquidation prices, without preference or priority over the holders of such other class or series; and

3. junior to another class or series either as to dividends or upon liquidation, if the rights of the holders of such class or series shall be subject or subordinate to the rights of the holders of such other class or series in respect of the receipt of dividends or the amounts distributable upon liquidation, dissolution or winding up, as the case may be.

**F. Restrictions on Voting Rights of the Corporation's Equity Securities.**

1. Notwithstanding any other provision of the Charter, in no event shall any record owner of any outstanding Common Stock which is beneficially owned, directly or indirectly, by a person who, as of any record date for the determination of stockholders entitled to vote on any matter, beneficially owns in excess of 10% of the then-outstanding shares of Common Stock (the "Limit"), be entitled, or permitted to any vote in respect of the shares held in excess of the Limit. The number of votes which may be cast by any record owner by virtue of the provisions hereof in respect of Common Stock beneficially owned by

such person owning shares in excess of the Limit shall be a number equal to the total number of votes which a single record owner of all Common Stock owned by such person would be entitled to cast, multiplied by a fraction, the numerator of which is the number of shares of such class or series beneficially owned by such person and owned of record by such record owner and the denominator of which is the total number of shares of Common Stock beneficially owned by such person owning shares in excess of the Limit.

2. The following definitions shall apply to this Section F of this Article 6.

(a) An "affiliate" of a specified person shall mean a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(b) "Beneficial ownership" shall be determined pursuant to Rule 13d-3 of the General Rules and Regulations under the Securities Exchange Act of 1934 (or any successor rule or statutory provision), or, if said Rule 13d-3 shall be rescinded and there shall be no successor rule or statutory provision thereto, pursuant to said Rule 13d-3 as in effect on January 31, 2002; provided, however, that a person shall, in any event, also be deemed the "beneficial owner" of any Common Stock:

(1) which such person or any of its affiliates beneficially owns, directly or indirectly; or

(2) which such person or any of its affiliates has (i) the right to acquire (whether such right is exercisable immediately or only after the passage of time), pursuant to any agreement, arrangement or understanding (but shall not be deemed to be the beneficial owner of any voting shares solely by reason of an agreement, contract, or other arrangement with this Corporation to effect any transaction which is described in any one or more of the clauses of Section A of Article 10) or upon the exercise of conversion rights, exchange rights, warrants, or options or otherwise, or (ii) sole or shared voting or investment power with respect thereto pursuant to any agreement, arrangement, understanding, relationship or otherwise (but shall not be deemed to be the beneficial owner of any voting shares solely by reason of a revocable proxy granted for a particular meeting of stockholders, pursuant to a public solicitation of proxies for such meeting, with respect to shares of which neither such person nor any such affiliate is otherwise deemed the beneficial owner), or

(3) which are beneficially owned, directly or indirectly, by any other person with which such first mentioned person or any of its affiliates acts as a partnership, limited partnership, syndicate or other group pursuant to any agreement, arrangement or understanding for the purpose of acquiring, holding, voting or disposing of any shares of capital stock of this Corporation;

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and provided further, however, that (i) no director or officer of this Corporation (or any affiliate of any such director or officer) shall, solely by reason of any or all of such directors or officers acting in their capacities as such, be deemed, for any purposes hereof, to beneficially own any Common Stock beneficially owned by any other such director or officer (or any affiliate thereof), and (ii) neither any employee stock ownership or similar plan of this Corporation or any subsidiary of this Corporation nor any trustee with respect thereto (or any affiliate of such trustee) shall, solely by reason of such capacity of such trustee, be deemed, for any purposes hereof, to beneficially own any Common Stock held under any such plan. For purposes of computing the percentage beneficial ownership of Common Stock of a person, the outstanding Common Stock shall include shares deemed owned by such person through application of this subsection but shall not include any other Common Stock which may be issuable by this Corporation pursuant to any agreement, or upon exercise of conversion rights, warrants or options, or otherwise. For all other purposes, the outstanding Common Stock shall include only Common Stock then outstanding and shall not include any Common Stock which may be issuable by this Corporation pursuant to any agreement, or upon the exercise of conversion rights, warrants or options, or otherwise.

(c) A "Person" shall mean any individual, firm, corporation, or other entity.

(d) The Board of Directors shall have the power to construe and apply the provisions of this Section F and to make all determinations necessary or desirable to implement such provisions, including but not limited to matters with respect to (i) the number of shares of Common Stock beneficially owned by any person, (ii) whether a person is an affiliate of another, (iii) whether a person has an agreement, arrangement, or understanding with another as to the matters referred to in the definition of beneficial ownership, (iv) the application of any other definition or operative provision of this Section F to the given facts, or (v) any other matter relating to the applicability or effect of this Section.

3. The Board of Directors shall have the right to demand that any person who is reasonably believed to beneficially own Common Stock in excess of the Limit (or holds of record Common Stock beneficially owned by any person in excess of the Limit) (a "Holder in Excess") supply the Corporation with complete information as to (a) the record owner(s) of all shares beneficially owned by such Holder in Excess, and (b) any other factual matter relating to the applicability or effect of this section as may reasonably be requested of such Holder in Excess. The Board of Directors shall further have the right to receive from any Holder in Excess reimbursement for all expenses incurred by the Board in connection with its investigation of any matters relating to the applicability or effect of this Section F on such Holder in Excess, to the extent such investigation is deemed appropriate by the Board of Directors as a result of the Holder in Excess refusing to supply the Corporation with the information described in the previous sentence.

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4. Except as otherwise provided by law or expressly provided in this Section F, the presence, in person or by proxy, of the holders of record of shares of capital stock of the Corporation entitling the holders thereof to cast one-third of the votes (after giving effect, if required, to the provisions of this Section F) entitled to be cast by the holders of shares of capital stock of the Corporation entitled to vote shall constitute a quorum at all meetings of the stockholders, and every reference in the Charter to a one-third or other proportion of capital stock (or the holders thereof) for purposes of determining any quorum requirement or any requirement for stockholder consent or approval shall be deemed to refer to such proportion of the votes (or the holders thereof) then entitled to be cast in respect of such capital stock.

5. Any constructions, applications, or determinations made by the Board of Directors, pursuant to this Section F in good faith and on the basis of such information and assistance as was then reasonably available for such purpose, shall be conclusive and binding upon the Corporation and its stockholders.

6. In the event any provision (or portion thereof) of this Section F shall be found to be invalid, prohibited or unenforceable for any reason, the remaining provisions (or portions thereof) of this Section F shall remain in full force and effect, and shall be construed as if such invalid, prohibited or unenforceable provision had been stricken herefrom or otherwise rendered inapplicable, it being the intent of this Corporation and its stockholders that each such remaining provision (or portion thereof) of this Section F remain, to the fullest extent permitted by law, applicable and enforceable as to all stockholders, including stockholders owning an amount of stock over the Limit, notwithstanding any such finding.

**G. Voting Rights of Certain Control Shares.** Notwithstanding any contrary provision of law, the provisions of Subtitle 7 of Title 3 of the MGCL, now or hereafter in force, shall not apply to the voting rights of the Common Stock of the Corporation as to all existing and future holders of Common Stock of the Corporation.

**H. Majority Vote.** Notwithstanding any provision of law requiring the authorization of any action by a greater proportion than a majority of the total number of shares of all classes of capital stock or of the total number of shares of any class of capital stock, such action shall be valid and effective if authorized by the affirmative vote of the holders of a majority of the total number of shares of all classes outstanding and entitled to vote thereon, except as otherwise provided in the Charter.

**ARTICLE 7. Preemptive Rights.** No holder of the capital stock of the Corporation or series of stock or of options, warrants or other rights to purchase shares of any class or series of stock or of other securities of the Corporation shall have any preemptive right to purchase or subscribe for any unissued capital stock of any class or series, or any unissued bonds, certificates of indebtedness, debentures or other securities convertible into or exchangeable for capital stock of any class or series or carrying any right to purchase stock of any class or series.

**ARTICLE 8. Directors.** The following provisions are inserted for the management of the business and the conduct of the affairs of the Corporation, and for further definition, limitation and regulation of the powers of the Corporation and of its directors and stockholders:

**A. Management of the Corporation.** The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. In addition to the powers and authority expressly conferred upon them by Statute or by the Charter or the Bylaws of the Corporation, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation.

**B. Number, Class and Terms of Directors; Cumulative Voting.** The number of directors shall be fixed from time to time exclusively by the Board of Directors pursuant to a resolution adopted by a majority of the Board. The directors, other than those who may be elected by the holders of any class or series of Preferred Stock, shall be divided into three classes, as nearly equal in number as reasonably possible, with the term of office of the first class ("Class I") to expire at the conclusion of the first annual meeting of stockholders, the term of office of the second class ("Class II") to expire at the conclusion of the annual meeting of stockholders one year thereafter and the term of office of the third class ("Class III") to expire at the conclusion of the annual meeting of stockholders two years thereafter, with each director to hold office until his or her successor shall have been duly elected and qualified. At each annual meeting of stockholders, directors elected to succeed those directors whose terms expire shall be

elected for a term of office to expire at the third succeeding annual meeting of stockholders after their election, with each director to hold office until his or her successor shall have been duly elected and qualified. Stockholders shall not be permitted to cumulate their votes in the election of directors.

**C. Vacancies.** Subject to the rights of the holders of any series of Preferred Stock then outstanding, and except as otherwise provided in the Bylaws of the Corporation, newly created directorships resulting from any increase in the authorized number of directors or any vacancies on the Board of Directors resulting from death, resignation, retirement, disqualification, removal from office or other cause shall be filled only by a majority vote of the directors then in office, though less than a quorum, and, by virtue of the Corporation's election made hereby to be subject to Section 3-804(c)(3) of the MCGL, any director so chosen shall hold office for the remainder of the full term of the class of directors in which the vacancy occurred and until a successor is elected and qualified. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

**D. Removal.** Subject to the rights of the holders of any series of Preferred Stock then outstanding, any directors, or the entire Board of Directors, may be removed from office at any time, but only for cause and then only by the affirmative vote of the holders of at least 80% of the combined voting power of all of the then-outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors (after giving effect to the provisions of Article 6 hereof) voting together as a single class.

**E. Stockholder Proposals and Nominations of Directors.** For any stockholder proposal to be presented in connection with an annual meeting of stockholders of the Corporation, including any nomination or proposal relating to the nomination of a director to be elected to the

Board of Directors of the Corporation, the stockholder must have given timely written notice thereof to the Secretary of the Corporation in the manner and containing the information required by the Bylaws of the Corporation. Stockholder proposals to be presented in connection with a special meeting of stockholders will be presented by the Corporation only to the extent required by Section 2-502 of the MGCL and the Bylaws of the Corporation.

**ARTICLE 9. Bylaws.** The Board of Directors is expressly empowered to adopt, amend or repeal the Bylaws of the Corporation. Any adoption, amendment or repeal of the Bylaws of the Corporation by the Board of Directors shall require the approval of a majority of the total number of directors which the Corporation would have if there were no vacancies on the Board of Directors. The stockholders shall also have power to adopt, amend or repeal the Bylaws of the Corporation. In addition to any vote of the holders of any class or series of stock of this Corporation required by law or by the Charter, the affirmative vote of the holders of at least 80% of the voting power of all of the then-outstanding shares of the capital stock of the Corporation entitled to vote generally in the election of directors (after giving effect to the provisions of Article 6 hereof), voting together as a single class, shall be required to adopt, amend or repeal any provisions of the Bylaws of the Corporation.

**ARTICLE 10. Approval of Certain Business Combinations.**

**A. Super-majority Voting Requirement; Business Combination Defined.** In addition to any affirmative vote required by law or the Charter, and except as otherwise expressly provided in this Section:

1. any merger or consolidation of the Corporation or any Subsidiary (as hereinafter defined) with (a) any Interested Stockholder (as hereinafter defined) or (b) any other corporation (whether or not itself an Interested Stockholder) which is, or after such merger or consolidation would be, an Affiliate (as hereinafter defined) of an Interested Stockholder; or
2. any sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions) to or with any Interested Stockholder, or any Affiliate of any Interested Stockholder, of any assets of the Corporation or any Subsidiary having an aggregate Fair Market Value (as hereafter defined) equaling or exceeding 25% or more of the combined assets of the Corporation and its Subsidiaries, or
3. the issuance or transfer by the Corporation or any Subsidiary (in one transaction or a series of transactions) of any securities of the Corporation or any Subsidiary to any Interested Stockholder or any Affiliate of any Interested Stockholder in exchange for cash, securities or other property (or a combination thereof) having an aggregate Fair Market Value equaling or exceeding 25% of the combined assets of the Corporation and its Subsidiaries except pursuant to an employee benefit plan of the Corporation or any Subsidiary thereof; or

4. the adoption of any plan or proposal for the liquidation or dissolution of the Corporation proposed by or on behalf of any Interested Stockholder or any Affiliate of any Interested Stockholder; or

5. any reclassification of securities (including any reverse stock split), or recapitalization of the Corporation, or any merger or consolidation of the Corporation with any of its Subsidiaries or any other transaction (whether or not with or into or otherwise involving an Interested Stockholder) which has the effect, directly or indirectly, of increasing the proportionate share of the outstanding shares of any class of equity or convertible securities of the Corporation or any Subsidiary which is directly or indirectly owned by any Interested Stockholder or any Affiliate of any Interested Stockholder (a "Disproportionate Transaction"); provided, however, that no such transaction shall be deemed a Disproportionate Transaction if the increase in the proportionate ownership of the Interested Stockholder or Affiliate as a result of such transaction is no greater than the increase experienced by the other stockholders generally;

shall require the affirmative vote of the holders of at least 80% of the voting power of the then-outstanding shares of stock of the Corporation entitled to vote in the election of directors (the "Voting Stock"), voting together as a single class. Such affirmative vote shall be required notwithstanding the fact that no vote may be required, or that a lesser percentage may be specified, by law or by any other provisions of the Charter (including those applicable to any class or series of capital stock) or in any agreement with any national securities exchange or quotation system or otherwise.

The term "Business Combination" as used in this Article 10 shall mean any transaction which is referred to in any one or more of paragraphs 1 through 5 of Section A of this Article 10.

**B. Exception to Super-majority Voting Requirement.** The provisions of Section A of this Article 10 shall not be applicable to any particular Business Combination, and such Business Combination shall require only the affirmative vote of the majority of the outstanding shares of capital stock entitled to vote, or such vote as is required by law or by the Charter, if, in the case of any Business Combination that does not involve any cash or other consideration being received by the stockholders of the Corporation solely in their capacity as stockholders of the Corporation, the condition specified in the following paragraph 1 is met or, in the case of any other Business Combination, all of the conditions specified in either of the following paragraphs 1 and 2 are met:

1. The Business Combination shall have been approved by a majority of the Disinterested Directors (as hereinafter defined).

2. All of the following conditions shall have been met:

(a) The aggregate amount of the cash and the Fair Market Value as of the date of the consummation of the Business Combination of consideration other than cash to be received per share by the holders of Common Stock in such Business Combination shall at least be equal to the higher of the following:

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(i) (if applicable) the Highest Per Share Price, including any brokerage commissions, transfer taxes and soliciting dealers' fees, paid by the Interested Stockholder or any of its Affiliates for any shares of Common stock acquired by it (i) within the two-year period immediately prior to the first public announcement of the proposal of the Business Combination (the "Announcement Date"), or (ii) in the transaction in which it became an Interested Stockholder, whichever is higher.

(ii) the Fair Market Value per share of Common Stock on the Announcement Date or on the date on which the Interested Stockholder became an Interested Stockholder (such latter date is referred to in this Article 10 as the "Determination Date"), whichever is higher.

(b) The aggregate amount of the cash and the Fair Market Value as of the date of the consummation of the Business Combination or consideration other than cash to be received per share by holders of shares of any class of outstanding Voting Stock other than Common Stock shall be at least equal to the highest of the following (it being intended that the requirements of this subparagraph (b) shall be required to be met with respect to every such class of outstanding Voting Stock, whether or not the Interested Stockholder has previously acquired any shares of a particular class of Voting Stock):

(i) (if applicable) the Highest Per Share Price (as hereinafter defined), including any brokerage commissions, transfer taxes and soliciting dealers' fees, paid by the Interested Stockholder for any shares of such class of Voting Stock acquired by it (i) within the two-year period immediately prior to the Announcement Date, or (ii) in the transaction in which it became an Interested Stockholder, whichever is higher;

(ii) (if applicable) the highest preferential amount per share to which the holders of shares of such class of Voting Stock are entitled in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation; and

(iii) the Fair Market Value per share of such class of Voting Stock on the Announcement Date or on the Determination Date, whichever is higher.

(c) The consideration to be received by holders of a particular class of outstanding Voting Stock (including Common Stock) shall be in cash or in the same form as the Interested Stockholder has previously paid for shares of such class of Voting Stock. If the Interested Stockholder has paid for shares of any class of Voting Stock with varying forms of consideration, the form of consideration to be received per share by holders of shares of such class of Voting Stock shall be either cash or the form used to acquire the largest number of shares of such class of Voting Stock

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previously acquired by the Interested Stockholder. The price determined in accordance with Section B.2. of this Article 10 shall be subject to appropriate adjustment in the event of any stock dividend, stock split, combination of shares or similar event.

(d) After such Interested Stockholder has become an Interested Stockholder and prior to the consummation of such Business Combination; (i) except as approved by a majority of the Disinterested Directors, there shall have been no failure to declare and pay at the regular date therefor any full quarterly dividends (whether or not cumulative) on any outstanding stock having preference over the Common Stock as to dividends or liquidation; (ii) there shall have been (X) no reduction in the annual rate of dividends paid on the Common Stock (except as necessary to reflect any subdivision of the Common Stock), except as approved by a majority of the Disinterested Directors, and (Y) an increase in such annual rate of dividends as necessary to reflect any reclassification (including any reverse stock split), recapitalization, reorganization or any similar transaction which has the effect of reducing the number of outstanding shares of Common Stock, unless the failure to so increase such annual rate is approved by a majority of the Disinterested Directors; and (iii) neither such Interested Stockholder nor any of its Affiliates shall have become the beneficial owner of any additional shares of Voting Stock except as part of the transaction which results in such Interested Stockholder becoming an Interested Stockholder.

(e) After such Interested Stockholder has become an Interested Stockholder, such Interested Stockholder shall not have received the benefit, directly or indirectly (except proportionately as a stockholder), of any loans, advances, guarantees, pledges or other financial assistance or any tax credits or other tax advantages provided by the Corporation, whether in anticipation of or in connection with such Business Combination or otherwise.

(f) A proxy or information statement describing the proposed Business Combination and complying with the requirements of the Securities Exchange Act of 1934 and the rules and regulations thereunder (or any subsequent provisions replacing such Act, rules or regulations) shall be mailed to stockholders of the Corporation at least 30 days prior to the consummation of such Business Combination (whether or not such proxy or information statement is required to be mailed pursuant to such Act or subsequent provisions).

**C. Certain Definitions.** For the purposes of this Article 10:

1. A "Person" shall include an individual, a group acting in concert, a corporation, a partnership, an association, a joint venture, a pool, a joint stock company, a trust, an unincorporated organization or similar company, a syndicate or any other group formed for the purpose of acquiring, holding or disposing of securities.

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2. "Interested Stockholder" shall mean any Person (other than the Corporation or any holding company or Subsidiary thereof) who or which:

(a) is the beneficial owner, directly or indirectly, of more than 10% of the voting power of the outstanding Voting Stock; or

(b) is an Affiliate of the Corporation and at any time within the two-year period immediately prior to the date in question was the beneficial owner, directly or indirectly, of 10% or more of the voting power of the then-outstanding Voting Stock; or

(c) is an assignee of or has otherwise succeeded to any shares of Voting Stock which were at any time within the two-year period immediately prior to the date in question beneficially owned by any Interested Stockholder, if such assignment or succession shall have occurred in the course of a transaction or series of transactions not involving a public offering within the meaning of the Securities Act of 1933.

3. A Person shall be a "beneficial owner" of any Voting Stock:

(a) which such Person or any of its Affiliates or Associates (as hereinafter defined) beneficially owns, directly or indirectly within the meaning of Rule 13d-3 under the Securities Exchange Act of 1934, as in effect on January 31, 2002; or

(b) which such Person or any of its Affiliates or Associates has (i) the right to acquire (whether such right is exercisable immediately or only after the passage of time), pursuant to any agreement, arrangement or understanding or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise, or (ii) the right to vote pursuant to any agreement, arrangement or understanding (but neither such Person nor any such Affiliate or Associate shall be deemed to be the beneficial owner of any shares of Voting Stock solely by reason of a revocable proxy granted for a particular meeting of stockholders, pursuant to a public solicitation of proxies for such meeting, and with respect to which shares neither such Person nor any such Affiliate or Associate is otherwise deemed the beneficial owner); or

(c) which are beneficially owned, directly or indirectly within the meaning of Rule 13d-3 under the Securities Exchange Act of 1934, as in effect on January 31, 2002, by any other Person with which such Person or any of its Affiliates or Associates has any agreement, arrangement or understanding for the purposes of acquiring, holding, voting (other than solely by reason of a revocable proxy as described in Subparagraph (b) of this Paragraph 3) or in disposing of any shares of Voting Stock;

provided, however, that, in the case of any employee stock ownership or similar plan of the Corporation or of any Subsidiary in which the beneficiaries thereof possess the right to vote any shares of Voting Stock held by such plan, no such plan nor any trustee with respect

thereto (nor any Affiliate of such trustee), solely by reason of such capacity of such trustee, shall be deemed, for any purposes hereof, to beneficially own any shares of Voting Stock held under any such plan.

4. For the purpose of determining whether a Person is an Interested Stockholder pursuant to Section C.2., the number of shares of Voting Stock deemed to be outstanding shall include shares deemed owned through application of Section C.3. but shall not include any other shares of Voting Stock which may be issuable pursuant to any agreement, arrangement or understanding, or upon exercise of conversion rights, warrants or options, or otherwise.

5. "Affiliate" and "Associate" shall have the respective meanings ascribed to such terms in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934, as in effect on January 31, 2002.

6. "Subsidiary" means any corporation of which a majority of any class of equity security is owned, directly or indirectly, by the Corporation; provided, however, that for the purposes of the definition of Interested Stockholder set forth in Section C.2., the term "Subsidiary" shall mean only a corporation of which a majority of each class of equity security is owned, directly or indirectly, by the Corporation.

7. "Disinterested Director" means any member of the Board of Directors who is unaffiliated with the Interested Stockholder and was a member of the Board of Directors prior to the time that the Interested Stockholder became an Interested Stockholder, and any director who is thereafter chosen to fill any vacancy on the Board of Directors or who is elected and who, in either event, is unaffiliated with the Interested Stockholder, and in connection with his or her initial assumption of office is recommended for appointment or election by a majority of Disinterested Directors then on the Board of Directors.

8. "Fair Market Value" means: (a) in the case of stock, the highest closing sales price of the stock during the 30-day period immediately preceding the date in question of a share of such stock on the Nasdaq System or any system then in use, or, if such stock is admitted to trading on a principal United States securities exchange registered under the Securities Exchange Act of 1934, Fair Market Value shall be the highest sale price reported during the 30-day period preceding the date in question, or, if no such quotations are available, the Fair Market Value on the date in question of a share of such stock as determined by the Board of Directors in good faith, in each case with respect to any class of stock, appropriately adjusted for any dividend or distribution in shares of such stock or in combination or reclassification of outstanding shares of such stock into a smaller number of shares of such stock, and (b) in the case of property other than cash or stock, the Fair Market Value of such property on the date in question as determined by the Board of Directors in good faith.

9. Reference to "Highest Per Share Price" shall in each case with respect to any class of stock reflect an appropriate adjustment for any dividend or distribution in shares of such stock or any stock split or reclassification of outstanding shares of such stock into a

greater number of shares of such stock or any combination or reclassification of outstanding shares of such stock into a smaller number of shares of such stock.

10. In the event of any Business Combination in which the Corporation survives, the phrase "consideration other than cash to be received" as used in Sections B.2.(a) and B.2.(b) of this Article 10 shall include the shares of Common Stock and/or the shares of any other class of outstanding Voting Stock retained by the holders of such shares.

**D. Construction and Interpretation.** A majority of the Disinterested Directors of the Corporation shall have the power and duty to determine for the purposes of this Article 10, on the basis of information known to them after reasonable inquiry, (a) whether a person is an Interested Stockholder; (b) the number of shares of Voting Stock beneficially owned by any person; (c) whether a person is an Affiliate or Associate of another; and (d) whether the assets which are the subject of any Business Combination have, or the consideration to be received for the issuance or transfer of securities by the Corporation or any Subsidiary in any Business Combination has, an aggregate Fair Market Value equaling or exceeding 25% of the combined assets of the Corporation and its Subsidiaries. A majority of the Disinterested Directors shall have the further power to interpret all of the terms and provisions of this Article 10.

**E. Fiduciary Duty.** Nothing contained in this Article 10 shall be construed to relieve any Interested Stockholder from any fiduciary obligation imposed by law.

**F. Maryland Business Combination Statute.** Notwithstanding any contrary provision of law, the provisions of Sections 3-601 through 3-604 of the MGCL, as now and hereafter in force, shall not apply to any business combination (as defined in Section 3-601(e) of the MGCL, as now and hereafter in force), of the Corporation.

**ARTICLE 11. Evaluation of Certain Offers.** The Board of Directors, when evaluating (i) any offer of another Person (as defined in Article 10 hereof) to (A) make a tender or exchange offer for any equity security of the Corporation, (B) merge or consolidate the Corporation with another corporation or entity, or (C) purchase or otherwise acquire all or substantially all of the properties and assets of the Corporation or (ii) any other actual or proposed transaction which would or may involve a change in control of the Corporation (whether by purchases of shares of stock or any other securities of the Corporation in the open market, or otherwise, tender offer, merger, consolidation, share exchange, dissolution, liquidation, sale of all or substantially all of the assets of the Corporation, proxy solicitation or otherwise), may, in connection with the exercise of its business judgment in determining what is in the best interests of the Corporation and its stockholders and in making any recommendation to the Corporation's stockholders, give due consideration to all relevant factors, including, but not limited to: (A) the economic effect, both immediate and long-term, upon the Corporation's stockholders, including stockholders, if any, who do not participate in the transaction; (B) the social and economic effect on the present and future employees, creditors and customers of, and others dealing with, the Corporation and its subsidiaries and on the communities in which the Corporation and its subsidiaries operate or are located; (C) whether the proposal is acceptable based on the historical, current or projected future operating results or financial condition of the Corporation; (D) whether a more favorable price could be obtained for the Corporation's stock or other securities in the future; (E) the reputation and business practices of the other entity to be

involved in the transaction and its management and affiliates as they would affect the employees of the Corporation and its subsidiaries; (F) the future value of the stock or any other securities of the Corporation or the other entity to be involved in the proposed transaction; (G) any antitrust or other legal and regulatory issues that are raised by the proposal; (H) the business and historical, current or expected future financial condition or operating results of the other entity to be involved in the transaction, including, but not limited to, debt service and other existing financial obligations, financial obligations to be incurred in connection with the proposed transaction, and other likely financial obligations of the other entity to be involved in the proposed transaction; and (I) the ability of the Corporation to fulfill its objectives as a financial institution holding company and on the ability of its subsidiary financial institution(s) to fulfill the objectives of a federally insured financial institution under applicable statutes and regulations. If the Board of Directors determines that any proposed transaction of the type described in clause (i) or (ii) of the immediately preceding sentence should be rejected, it may take any lawful action to defeat such transaction, including, but not limited to, any or all of the following: advising stockholders not to accept the proposal; instituting litigation against the party making the proposal; filing complaints with governmental and regulatory authorities; acquiring the stock or any of the securities of the Corporation; increasing the authorized stock of the Corporation; selling or otherwise issuing authorized but unissued stock, other securities or granting options or rights with respect thereto; acquiring a company to create an antitrust or other regulatory problem for the party making the proposal; and obtaining a more favorable offer from another individual or entity. This Article 11 does not create any inference concerning factors that may be considered by the Board of Directors regarding any proposed transaction of the type described in clause (i) or (ii) of the first sentence of this Article 11.

## **ARTICLE 12. Indemnification, etc. of Directors and Officers.**

**A. Indemnification.** The Corporation shall indemnify (1) its current and former directors and officers, whether serving the Corporation or at its request any other entity, to the fullest extent required or permitted by the MGCL now or hereafter in force (but, in the case of any amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than such law permitted the Corporation to provide prior to such amendment), including the advancement of expenses under the procedures and to the fullest extent permitted by law, and (2) other employees and agents to such extent as shall be authorized by the Board of Directors and permitted by law; provided, however, that, except as provided in Section B hereof with respect to proceedings to enforce rights to indemnification, the Corporation shall indemnify any such indemnitee in connection with a proceeding (or part thereof) initiated by such indemnitee only if such proceeding (or part thereof) was authorized by the Board of Directors of the Corporation.

**B. Procedure.** If a claim under Section A of this Article 12 is not paid in full by the Corporation within 60 days after a written claim has been received by the Corporation, except in the case of a claim for an advancement of expenses, in which case the applicable period shall be 20 days, the indemnitee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, the indemnitee shall also be entitled to be reimbursed the expense of prosecuting or defending such suit. It shall be a defense to any action for advancement of expenses that the Corporation has not received both (i) an undertaking as required by law to repay such advances in the event it shall ultimately be determined that the standard of conduct has not been met and (ii) a written affirmation by the indemnitee of his good

faith belief that the standard of conduct necessary for indemnification by the Corporation has been met. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such suit that indemnification of the indemnitee is proper in the circumstances because the indemnitee has met the applicable standard of conduct set forth in the MGCL, nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the indemnitee has not met such applicable standard of conduct, shall create a presumption that the indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by the indemnitee, be a defense to such suit. In any suit brought by the indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the indemnitee is not entitled to be indemnified, or to such advancement of expenses, under this Article 12 or otherwise shall be on the Corporation.

**D. Non-Exclusivity.** The rights to indemnification and to the advancement of expenses conferred in this Article 12 shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, the Charter, the Corporation's Bylaws, any agreement, any vote of stockholders or Disinterested Directors or otherwise.

**E. Insurance.** The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the MGCL.

**F. Miscellaneous.** The Corporation shall not be liable for any payment under this Article 12 in connection with a claim made by any indemnitee to the extent such indemnitee has otherwise actually received payment under any insurance policy, agreement, or otherwise, of the amounts otherwise indemnifiable hereunder. The rights to indemnification and to the advancement

of expenses conferred in Sections A and B of this Article 12 shall be contract rights and such rights shall continue as to an indemnitee who has ceased to be a director or officer and shall inure to the benefit of the indemnitee's heirs, executors and administrators.

Any repeal or modification of this Article 12 shall not in any way diminish any rights to indemnification or advancement of expenses of such director or officer or the obligations of the Corporation arising hereunder with respect to events occurring, or claims made, while this Article 12 is in force.

**ARTICLE 13. Limitation of Liability.** An officer or director of the Corporation, as such, shall not be liable to the Corporation or its stockholders for money damages, except (i) to the extent that it is proved that the person actually received an improper benefit or profit in money, property or services for the amount of the benefit or profit in money, property or services actually received; (ii) to the extent that a judgment or other final adjudication adverse to the person is entered in a proceeding based on a finding in the proceeding that the person's action, or failure to act, was the result of active and deliberate dishonesty and was material to the cause of action adjudicated in the proceeding; or (iii) to the extent otherwise required by the MGCL. If the MGCL is amended to

further eliminate or limit the personal liability of officers and directors, then the liability of officers and directors of the Corporation shall be eliminated or limited to the fullest extent permitted by MGCL, as so amended.

Any repeal or modification of the foregoing paragraph by the stockholders of the Corporation shall not adversely affect any right or protection of a director or officer of the Corporation existing at the time of such repeal or modification.

**ARTICLE 14. Amendment of the Charter.** The Corporation reserves the right to amend or repeal any provision contained in the Charter in the manner prescribed by the MGCL, including any amendment altering the terms of contract rights, as expressly set forth in the Charter, of any of the Corporation's outstanding stock by classification, reclassification or otherwise, and all rights conferred upon stockholders are granted subject to this reservation; provided, however, that, notwithstanding any other provision of the Charter or any provision of law which might otherwise permit a lesser vote or no vote, but in addition to any vote of the holders of any class or series of the stock of this Corporation required by law or by the Charter, the affirmative vote of the holders of at least 80% of the voting power of all of the then-outstanding shares of the capital stock of the Corporation entitled to vote generally in the election of directors (after giving effect to the provisions of Article 6), voting together as a single class, shall be required to amend or repeal this Article 14, Sections F and G of Article 6, Article 8, Article 9, Article 10 or Article 12.

**ARTICLE 15. Name and Address of Incorporator.** The name and mailing address of the sole incorporator are as follows:

NAME MAILING ADDRESS

Hans R. Ganz 610 Bay Boulevard  
Chula Vista, California 91910

I, THE UNDERSIGNED, being the incorporator, for the purpose of forming a corporation under the laws of the State of Maryland, have signed these Articles of Incorporation and acknowledge the same to be my act on this 22nd day of March, 2002.

---

Hans R. Ganz, Incorporator

NUMBER  
CUSIP

COMMON STOCK

FIRST PACTRUST BANCORP, INC.  
INCORPORATED UNDER THE LAWS OF THE STATE OF MARYLAND

This Certifies that

is the owner of

FULLY PAID AND NONASSESSABLE SHARES OF COMMON STOCK,  
PAR VALUE \$.01 PER SHARE OF

FIRST PACTRUST BANCORP, INC. (the "Corporation"), a Maryland corporation. The shares represented by this certificate are transferable only on the stock transfer books of the Corporation by the holder of record hereof, or by his duly authorized attorney or legal representative, upon the surrender of this certificate properly endorsed. This certificate is not valid until countersigned and registered by the Transfer Agent and Registrar. This security is not a deposit or account and is not federally insured or guaranteed.

IN WITNESS WHEREOF, the Corporation has caused this certificate to bear the facsimile signatures of its duly authorized officers and to be sealed with the facsimile of its corporate seal.

DATED

James P. Sheehy  
Secretary

Hans R. Ganz  
President and Chief Executive Officer

[Seal]

[Back of Certificate](#)



The Corporation will furnish to any stockholder on request and without charge a full statement of the designations and any preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends, qualifications, and terms and conditions of redemption of the stock of each class which the Corporation is authorized to issue, of the differences in the relative rights and preferences between the shares of each series of a preferred or special class in series which the Corporation is authorized to issue, to the extent they have been set, and of the authority of the Board of Directors to set the relative rights and preferences of subsequent series of a preferred or special class of stock. Such request may be made to the Secretary of the Corporation.

Keep this certificate in a safe place. If it is lost, stolen, or destroyed, the Corporation may require a bond of indemnity as a condition to the issuance of a replacement certificate.

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

UNIF GIFT MIN ACT

Custodian

(Cust)

(Minor)

UNIF GIFT MIN ACT

Custodian

(Cust)

(Minor)

Under Uniform Gift to Minors Act - \_\_\_\_\_  
(State)

Under Uniform Gift to Minors Act - \_\_\_\_\_  
(State)

TEN COM - as tenants in common  
TEN ENT = as tenants by the entireties  
JT TEN - as joint tneants with right of survivorship and not as tenants in common

Additional abbreviations may also be used though not in the above list.

For Value Received, \_\_\_\_\_ hereby sell, assign and transfer unto  
\_\_\_\_\_

\_\_\_\_\_  
PLEASE INSERT SOCIAL SECURITY OR OTHER  
IDENTIFYING  
NUMBER OF ASSIGNEE

\_\_\_\_\_  
(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS, INCLUDING ZIP CODE, OF ASSIGNEE)

\_\_\_\_\_ Shares of Common Stock represented by the within certificate, and do hereby irrevocably constitute and appoint

\_\_\_\_\_ Attorney to transfer the said shares on the books of the within named Corporation with full

power of substitution in the premises.

Dated \_\_\_\_\_

NOTICE: THE TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE CERTIFICATE IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATEVER.

March 27, 2002

**VIA EDGAR**

Board of Directors  
First PacTrust Bancorp, Inc.  
610 Bay Boulevard  
Chula Vista, California 91910

Members of the Board of Directors:

We have acted as special counsel to First PacTrust Bancorp, Inc., a Maryland corporation (the "Holding Company"), in connection with the preparation and filing with the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended, of the Registration Statement on Form S-1 (the "Registration Statement"), relating to the issuance of up to 4,099,750 shares of the Holding Company's common stock, par value \$.01 per share (the "Common Stock"), in connection with the conversion of Pacific Trust Bank, a federally chartered mutual savings bank (the "Bank"), into a federally chartered stock savings bank as a wholly owned subsidiary of the Holding Company (the "Conversion"). The Conversion and the offering of the shares of Common Stock for sale to the public are being made in accordance with the Plan of Conversion (the "Plan"). In this regard, we have examined the Charter and Bylaws of the Holding Company, resolutions of the Board of Directors of the Bank, the Plan and such other documents and matters of law as we deemed appropriate for the purpose of this opinion.

Based upon the foregoing, we are of the opinion as of the date hereof that the Common Stock has been duly and validly authorized, and when issued in accordance with the terms of the Plan, and upon the receipt of the consideration required thereby, will be legally issued, fully paid and non-assessable.

We hereby consent to the filing of this opinion as an exhibit to the Holding Company's Registration Statement and to the references to Silver, Freedman & Taff, L.L.P. under the heading "Legal and Tax Opinions" in the Prospectus contained in the Registration Statement. In giving this consent, we do not admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended or the rules and regulations of the Securities and Exchange Commission thereunder.

Very truly yours,

/s/ Silver, Freedman & Taff, L.L.P.

SILVER, FREEDMAN & TAFF, L.L.P.

Law Offices  
**Silver, Freedman & Taff, L.L.P.**  
A Limited Liability Partnership Including Professional Corporations

TELECOPIER NUMBER  
(202) 337-5502  
1700 WISCONSIN AVENUE, N.W.  
WASHINGTON, D.C. 20007  
(202) 295-4500  
WWW.SFTLAW.COM

March 25, 2002

WRITER'S DIRECT DIAL #  
(202) 295-4503

Board of Directors  
Pacific Trust Bank  
610 Bay Boulevard  
Chula Vista, California 91910

**RE: Federal Income Tax Opinion Relating To The Conversion of Pacific Trust Bank From A Federally-Chartered Mutual Savings Bank To A Federally-Chartered Stock Savings Bank Under Section 368(a)(1)(F) of the Internal Revenue Code of 1986, As Amended**

Ladies and Gentlemen:

In accordance with your request set forth hereinbelow is the opinion of this firm relating to the federal income tax consequences of the conversion of Pacific Trust Bank ("Bank") from a federal mutual to a federal stock institution pursuant to the provisions of Section 368(a)(1)(F) of the Internal Revenue Code of 1986, as amended (the "Code").

Capitalized terms used herein which are not expressly defined herein shall have the meaning ascribed to them in the Plan of Conversion dated March 1, 2002 (the "Plan").

The following assumptions have been made in connection with our opinions hereinbelow:

1. The Conversion is implemented in accordance with the terms of the Plan and all conditions precedent contained in the Plan shall be performed or waived prior to the consummation of the Conversion.

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2. No amount of the Deposit Accounts of Bank, as of the Eligibility Record Date or the Supplemental Eligibility Record Date, will be excluded from participating in the liquidation account of Converted Bank. To the best of the knowledge of the management of Bank there is not now, nor will there be at the time of the Conversion, any plan or intention, on the part of the depositors in Bank to withdraw their deposits following the Conversion. Deposits withdrawn immediately prior to or immediately subsequent to the Conversion (other than maturing deposits) are considered in making these assumptions.

3. Holding Company and Converted Bank each have no plan or intention to redeem or otherwise acquire any of the Holding Company Conversion Stock to be issued in the proposed transaction.

4. Immediately following the consummation of the proposed transaction, Converted Bank will possess the same assets

and liabilities as Bank held immediately prior to the proposed transaction plus substantially all of the net proceeds from the sale of its stock to Holding Company, except for assets used to pay expenses of the Conversion. The liabilities transferred to Converted Bank were incurred by Bank in the ordinary course of business.

5. No cash or property will be given to holders of Deposit Accounts in lieu of Subscription Rights or an interest in the liquidation account of Converted Bank.

6. Following the Conversion, Converted Bank will continue to engage in its business in substantially the same manner as Bank engaged in business prior to the Conversion, and it has no plan or intention to sell or otherwise dispose of any of its assets, except in the ordinary course of business.

7. There is no plan or intention for Converted Bank to be liquidated or merged with another corporation following the consummation of the Conversion.

8. The fair market value of each Deposit Account plus an interest in the liquidation account of Converted Bank will, in each instance, be approximately equal to the fair market value of each Deposit Account of Bank plus the interest in the residual equity of Bank surrendered in exchange therefor.

9. Bank, Converted Bank and Holding Company are each corporations within the meaning of Section 7701(a)(3) of the Code.

10. Holding Company has no plan or intention to sell or otherwise dispose of any of the stock of Converted Bank received by it in the proposed transaction.

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11. Both Converted Bank and Holding Company have no plan or intention to issue additional shares of common stock following the proposed transaction, other than shares that may be issued to employees and/or directors pursuant to certain stock option and stock incentive plans or that may be issued to or pursuant to employee benefit plans.

12. Assets used to pay expenses of the Conversion and all distributions (except for regular, normal interest payments and other payments in the normal course of business made by Bank immediately preceding the transaction) will in the aggregate constitute less than 1% of the net assets of Bank and any such expenses and distributions will be paid from the proceeds of the sale of Holding Company Conversion Stock.

13. All distributions to holders in their capacity as such (except for regular, normal interest payments made by Bank), will, in the aggregate, constitute less than 1% of the fair market value of the net assets of Bank.

14. At the time of the proposed transaction, the fair market value of the assets of Bank on a going concern basis (including intangibles) will equal or exceed the amount of its liabilities plus the amount of liabilities to which such assets are subject. Bank will have a positive regulatory net worth at the time of the Conversion.

15. Bank is not under the jurisdiction of a court in a Title 11 or similar case within the meaning of Section 368(a)(3)(A) of the Code. The proposed transaction does not involve a receivership, foreclosure, or similar proceeding before a federal or state agency involving a financial institution to which Section 585 of the Code applies.

16. Bank's Eligible Account Holders and Supplemental Eligible Account Holders will pay expenses of the Conversion solely attributable to them, if any.

17. The liabilities of Bank assumed by Converted Bank plus the liabilities, if any, to which the transferred assets are subject were incurred by Bank in the ordinary course of its business and are associated with the assets being transferred.

18. There will be no purchase price advantage for holders of Deposit Accounts who purchase Holding Company Conversion Stock.

19. None of Holding Company, Bank or Converted Bank is an investment company as defined in Sections 368(a)(2)(F) (iii) and (iv) of the Code.

20. None of the compensation to be received by any Deposit Account holder-employees of Bank will be separate consideration for, or allocable to, any of their deposits in Bank.

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March 25, 2002

Page 4

No interest in the liquidation account of Converted Bank will be received by any Deposit Account holder-employees as separate consideration for, or will otherwise be allocable to, any employment agreement, and the compensation paid to each Deposit Account holder-employee, during the twelve-month period preceding or subsequent to the Conversion, will be for services actually rendered and will be commensurate with amounts paid to the third parties bargaining at arm's-length for similar services. No shares of Holding Company Conversion Stock will be issued to or purchased by any Deposit Account holder-employee at a discount or as compensation in the proposed transaction.

21. No creditors of Bank, or the depositors in their role as creditors, have taken any steps to enforce their claims against Bank by instituting bankruptcy or other legal proceedings, in either a court or appropriate regulatory agency, that would eliminate the proprietary interests of the Members prior to the Conversion of Bank including depositors as the equity holders of Bank.

22. The proposed transaction does not involve the payment to Converted Bank or Bank of financial assistance from federal agencies within the meaning of Notice 89-102, 1989-40 C.B. 1.

23. On a per share basis, the purchase price of Holding Company Conversion Stock will be equal to the fair market value of such stock at the time of the completion of the proposed transaction.

24. All shares of Holding Company Conversion Stock sold in the Conversion will be sold for the same price on a per share basis.

25. Bank has received or will receive prior to completion of the transaction an opinion from RP Financial, Inc. (the "Appraiser's Opinion"), which concludes that the Subscription Rights to be received by Eligible Account Holders, Supplemental Eligible Account Holders and other eligible subscribers do not have any value at the time of their distribution or exercise.

26. Bank will not have any net operating losses, capital loss carryovers or built-in losses at the time of the Conversion.

All of the foregoing assumptions shall also be true and correct at the time of the Conversion as if remade anew at such time.

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### **OPINION**

Based solely on the assumptions set forth hereinabove and our analysis and examination of applicable federal income tax laws, rulings, regulations, judicial precedents and the Appraiser's Opinion, we are of the opinion that if the transaction is undertaken in accordance with the above assumptions:

(1) The Conversion will constitute a reorganization within the meaning of Section 368(a)(1)(F) of the Code. Neither Bank nor Converted Bank will recognize any gain or loss as a result of the transaction (Rev. Rul. 80-105, 1980-1 C.B. 78). Bank and Converted Bank will each be a party to a reorganization within the meaning of Section 368(b) of the Code.

(2) Converted Bank will recognize no gain or loss upon the receipt of money and other property, if any, in the Conversion, in exchange for its shares. (Section 1032(a) of the Code).

(3) No gain or loss will be recognized by Holding Company upon the receipt of money for Holding Company Conversion Stock. (Section 1032(a) of the Code).

(4) The basis of Bank's assets in the hands of Converted Bank will be the same as the basis of those assets in the hands of Bank immediately prior to the transaction. (Section 362(b) of the Code).

(5) Converted Bank's holding period of the assets of Bank will include the period during which such assets were held by Bank prior to the Conversion. (Section 1223(2) of the Code).

(6) Converted Bank, for purposes of Section 381 of the Code, will be treated as if there had been no reorganization. The tax attributes of Bank enumerated in Section 381(a) of the Code will be taken into account by Converted Bank as if there had been no reorganization. Accordingly, the tax year of Bank will not end on the effective date of the Conversion. The part of the tax year of Bank before the Conversion will be includible in the tax year of Converted Bank after the Conversion. Therefore, Bank will not have to file a federal income tax return for the portion of the tax year prior to the Conversion. (Rev. Rul. 57-276, 1957-1 C.B. 126).

(7) Depositors will realize gain, if any, upon the constructive issuance to them of withdrawable deposit accounts of Converted Bank, Subscription Rights and/or interests in the liquidation account of Converted Bank. Any gain resulting therefrom will be recognized, but only in an amount not in excess of the fair market value of the liquidation accounts and/or Subscription Rights received. The liquidation account will have nominal, if any, fair market value. Since the Subscriptions Rights are acquired by recipients without cost, are non-transferable and of short duration, and afford the recipients a right only to purchase Holding Company Conversion Stock at

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a price equal to its fair market value without any purchase price advantage over purchasers in the Direct Community Offering or Public Offering, we do not believe the Subscription Rights have any taxable value at the time of distribution or exercise. Moreover, we are not aware of the Internal Revenue Service asserting or claiming in any previously completed similar conversion transaction involving a thrift institution that Subscription Rights and/or interests in the liquidation account have any market value at the time of distribution or separately, in the case of Subscription Rights, at the time they are exercised. Based upon the foregoing, we conclude that it is more likely than not that: (a) no taxable income will be recognized by depositors, borrowers, directors, officers and employees of Bank upon the distribution to them of Subscription Rights or upon the exercise or lapse of the Subscription Rights to acquire Holding Company Conversion Stock; and (b) no taxable income will be realized by Bank, Converted Bank or Holding Company on the issuance or distribution of Subscription Rights to depositors of Bank to purchase shares of Holding Company Conversion Stock.

Notwithstanding the foregoing, if the Subscription Rights are subsequently found to have a fair market value, income may be recognized by various recipients of the Subscription Rights (in certain cases, whether or not the rights are exercised) and Holding Company and/or Converted Bank may be taxable on the distribution of the Subscription Rights. (Section 311 of the Code). In this regard, the Subscription Rights may be taxed partially or entirely at ordinary income tax rates.

(8) The creation of the liquidation account on the records of Converted Bank will have no effect on Bank's or Converted Bank's taxable income, deductions, or tax bad debt reserve.

(9) A depositor's basis in his Deposit Account(s) of Converted Bank will be the same as the basis of his Deposit Account(s) in Bank. (Section 1012 of the Code). The basis of the Subscription Rights will be zero unless they have a taxable value. The basis of the interest in the liquidation account of Converted Bank received by Eligible Account Holders and Supplemental Eligible Account Holders will be equal to the cost of such property, i.e., the fair market value of the proprietary interest in Bank, which in this transaction we assume to be zero.

(10) The basis of Holding Company Conversion Stock to its shareholders will be the purchase price thereof. (Section 1012 of the Code).

(11) A shareholder's holding period for Holding Company Conversion Stock acquired through the exercise of the Subscription Rights shall begin on the date on which the Subscription Rights are exercised. (Section 1223(6) of the Code.) The holding period for the Holding Company Conversion Stock purchased pursuant to the Direct Community Offering, Public Offering or under other purchase arrangements will commence on the date following the date on which such stock is purchased. (Rev. Rul. 70-598, 1970-2 C.B. 168).

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(12) Regardless of any book entries that are made for the establishment of the liquidation account, the reorganization will not diminish the accumulated earnings and profits of Bank available for the subsequent distribution of dividends, within the meaning of Section 316 of the Code. Section 1.312-11(b) and (c) of the Income Tax Regulations. Converted Bank will succeed to and take into account the earnings and profits or deficit in earnings and profits of Bank as of the date of Conversion.

The above opinions are effective to the extent that Bank is solvent. No opinion is expressed about the tax treatment of the transaction if Bank is insolvent. Whether or not Bank is solvent will be determined at the end of the taxable year in which the transaction is consummated.

No opinion is expressed as to the tax treatment of the transaction under the provisions of any of the other sections of the Code and Income Tax Regulations which may also be applicable thereto, or to the tax treatment of any conditions existing at the time of, or effects resulting from, the transaction which are not specifically covered by the opinions set forth above.

Respectfully submitted,

SILVER, FREEDMAN & TAFF, L.L.P.

/s/ Barry P. Taff

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End.

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March 15, 2002

Board of Directors  
Pacific Trust Bank  
610 Bay Boulevard  
Chula Vista, California 91910

Re: Plan of Conversion: Subscription Rights  
Pacific Trust Bank, Chula Vista, California

Gentlemen:

All capitalized terms not otherwise defined in this letter have the meanings given such terms in the plan of conversion adopted by the Board of Directors of Pacific Trust Bank, Chula Vista, California ("Pacific Trust" or the "Bank") whereby the Bank will convert from a federally chartered mutual savings bank to a federally chartered stock savings bank and issue all of the Bank's outstanding capital stock to First PacTrust Bancorp, Inc. ("Bancorp"). Simultaneously, Bancorp will issue shares of common stock.

We understand that in accordance with the plan of conversion, subscription rights to purchase shares of common stock in Bancorp are to be issued to: (1) Eligible Account Holders; (2) the ESOP; (3) Supplemental Eligible Account Holders; (4) Other Members of Pacific Trust; and (5) directors, officers and employees of Pacific Trust. Based solely upon our observation that the subscription rights will be available to such parties without cost, will be legally non-transferable and of short duration, and will afford such parties the right only to purchase shares of common stock at the same price as will be paid by members of the general public in the Community Offering, but without undertaking any independent investigation of state or federal law or the position of the Internal Revenue Service with respect to this issue, we are of the belief that, as a factual matter:

- (1) the subscription rights will have no ascertainable market value; and,
- (2) the price at which the subscription rights are exercisable will not be more or less than the pro forma market value of the shares upon issuance.

Changes in the local and national economy, the legislative and regulatory environment, the stock market, interest rates, and other external forces (such as natural disasters or significant world events) may occur from time to time, often with great unpredictability and may materially impact the value of thrift stocks as a whole or Bancorp's value alone. Accordingly, no assurance can be given that persons who subscribe to shares of common stock in the subscription offering will thereafter be able to buy or sell such shares at the same price paid in the subscription offering.

Sincerely,

/s/ RP Financial, LC.

RP FINANCIAL, LC.

January 7, 2002

Mr. Hans R. Ganz  
President and Chief Executive Officer  
Pacific Trust Bank  
610 Bay Boulevard  
Chula Vista, California 91910

Dear Mr. Ganz:

This letter sets forth the agreement between Pacific Trust Bank, Chula Vista, California ("Pacific Trust" or the "Bank"), and RP Financial, LC. ("RP Financial") for independent conversion appraisal services pertaining to the Bank's simultaneous holding company formation and mutual-to-stock conversion. The specific appraisal services to be rendered by RP Financial are described below. These services will be directed by the undersigned.

### Description of Appraisal Services

Prior to preparing the conversion appraisal report, RP Financial will conduct a financial due diligence, including on-site interviews of senior management and reviews of financial and other documents and records, to gain insight into the Bank's operations, financial condition, profitability, market area, risks and various internal and external factors which impact the pro forma market value of the Bank.

RP Financial will prepare a detailed written valuation report of the Bank which will be fully consistent with applicable federal regulatory guidelines and standard pro forma valuation practices. The appraisal report will include an analysis of the Bank's financial condition and operating results, as well as an assessment of the Bank's interest rate risk, credit risk and liquidity risk. The appraisal report will describe the Bank's business strategies, market area, prospects for the future and the intended use of proceeds. A peer group analysis relative to comparable publicly-traded savings institutions will be conducted for the purpose of determining appropriate valuation adjustments for the Bank relative to the peer group.

We will review pertinent sections of the Bank's prospectus and hold discussions with the Bank to obtain necessary data and information for the appraisal report, including the impact of key deal elements on the pro forma market value, such as dividend policy, use of proceeds and reinvestment rate, tax rate, conversion expenses and characteristics of stock plans.

The appraisal report will establish a midpoint pro forma market value. The appraisal report may be periodically updated throughout the conversion process as appropriate. The conversion appraisal guidelines require at least one updated valuation just prior to the time of the closing of the stock offering.

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#### **Washington Headquarters**

Rosslyn Center  
1700 North Moore Street, Suite 2210  
Arlington, VA 22209  
www.rpfinancial.com

Telephone: (703) 528-1700  
Fax No.: (703) 528-1788  
Toll-Free No.: (866) 723-0594  
E-Mail: mail@rpfinancial.com

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*Board of Directors*  
*January 7, 2002*  
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RP Financial agrees to deliver the appraisal report and subsequent updates, in writing, to the Bank at the above address in conjunction with the filing of the regulatory application. Subsequent updates will be filed promptly as certain events occur which would warrant the preparation and filing of such valuation updates. Further, RP Financial agrees to perform such other services as are necessary or required in connection with the regulatory review of the appraisal and respond to the regulatory comments, if any, regarding the valuation appraisal and subsequent updates. RP Financial expects to formally present the appraisal report, including the appraisal methodology, peer group selection and assumptions, to the Board of Directors for review and acceptance.

## Fee Structure

The Bank agrees to pay RP Financial a fixed fee of \$35,000 for preparation and delivery of the original appraisal report and \$2,500 for each required appraisal update, plus reimbursable expenses. Payment of these fees shall be made according to the following schedule:

- \$5,000 upon execution of the letter of agreement engaging RP Financial's appraisal services;
- \$30,000 upon delivery of the completed original appraisal report; and
- \$2,500 upon completion of each required valuation update.

The Bank will reimburse RP Financial for out-of-pocket expenses incurred in preparation of the valuation reports. Such out-of-pocket expenses will likely include travel, printing, telephone, facsimile, shipping, computer and data services. RP Financial will agree to limit reimbursable expenses in conjunction with the business planning engagement, subject to written authorization from the Bank to exceed such level.

In the event the Bank shall, for any reason, discontinue the proposed conversion prior to delivery of the completed documents set forth above and payment of the respective progress payment fees, the Bank agrees to compensate RP Financial according to RP Financial's standard billing rates for consulting services based on accumulated and verifiable time expenses, not to exceed the respective fee caps noted above, after giving full credit to the initial retainer fee. RP Financial's standard billing rates range from \$75 per hour for research associates to \$250 per hour for managing directors.

If during the course of the proposed transaction, unforeseen events occur so as to materially change the nature or the work content of the services described in this contract, the terms of said contract shall be subject to renegotiation by the Bank and RP Financial. Such unforeseen events shall include, but not be limited to, major changes in the conversion regulations, appraisal guidelines or processing procedures as they relate to conversion appraisals, major changes in management or procedures, operating policies or philosophies, and excessive delays or suspension of processing of conversion applications by the regulators such that completion of the conversion transaction requires the preparation by RP Financial of a new appraisal.

## Representations and Warranties

The Bank and RP Financial agree to the following:

1. The Bank agrees to make available or to supply to RP Financial such information with respect to its business and financial condition as RP Financial may reasonably request in order to provide the aforesaid valuation. Such information heretofore or hereafter supplied or made available to RP Financial shall include: annual financial statements, periodic regulatory filings and material agreements, debt instruments, off balance sheet assets or liabilities, commitments and contingencies, unrealized gains or losses and corporate books and records. All information provided by the Bank to RP Financial shall remain strictly confidential (unless such information is otherwise made available to the public), and if the conversion is not consummated or the services of RP Financial are terminated hereunder, RP Financial shall upon request promptly return to the Bank the original and any copies of such information.

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*Board of Directors*

*January 7, 2002*

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2. The Bank hereby represents and warrants to RP Financial that any information provided to RP Financial does not and will not, to the best of the Bank's knowledge, at the times it is provided to RP Financial, contain any untrue statement of a material fact or fail to state a material fact necessary to make the statements therein not false or misleading in light of the circumstances under which they were made.

3. (a) The Bank agrees that it will indemnify and hold harmless RP Financial, any affiliates of RP Financial, the respective directors, officers, agents and employees of RP Financial or their successors and assigns who act for or on behalf of RP Financial in connection with the services called for under this agreement (hereinafter referred to as "RP Financial"), from and against any and all losses, claims, damages and liabilities (including, but not limited to, all losses and expenses in connection with claims under the federal securities laws) attributable to (i) any untrue statement or alleged untrue statement of a material fact contained in the financial statements or other information furnished or otherwise provided by the Bank to RP Financial, either

orally or in writing; (ii) the omission or alleged omission of a material fact from the financial statements or other information furnished or otherwise made available by the Bank to RP Financial; or (iii) any action or omission to act by the Bank, or the Bank's respective officers, directors, employees or agents which action or omission is willful or negligent. The Bank will be under no obligation to indemnify RP Financial hereunder if a court determines that RP Financial was negligent or acted in bad faith with respect to any actions or omissions of RP Financial related to a matter for which indemnification is sought hereunder. Any time devoted by employees of RP Financial to situations for which indemnification is provided hereunder, shall be an indemnifiable cost payable by the Bank at the normal hourly professional rate chargeable by such employee.

(b) RP Financial shall give written notice to the Bank of such claim or facts within thirty days of the assertion of any claim or discovery of material facts upon which the RP Financial intends to base a claim for indemnification hereunder. In the event the Bank elects, within seven days of the receipt of the original notice thereof, to contest such claim by written notice to RP Financial, RP Financial will be entitled to be paid any amounts payable by the Bank hereunder, together with interest on such costs from the date incurred at the annual rate of prime plus two percent within five days after the final determination of such contest either by written acknowledgement of the Bank or a final judgment of a court of competent jurisdiction. If the Bank does not so elect, RP Financial shall be paid promptly and in any event within thirty days after receipt by the Bank of the notice of the claim.

(c) The Bank shall pay for or reimburse the reasonable expenses, including attorneys' fees, incurred by RP Financial in advance of the final disposition of any proceeding within thirty days of the receipt of such request if RP Financial furnishes the Bank: (1) a written statement of RP Financial's good faith belief that it is entitled to indemnification hereunder; and (2) a written undertaking to repay the advance if it ultimately is determined in a final adjudication of such proceeding that it or he is not entitled to such indemnification.

(d) In the event the Bank does not pay any indemnified loss or make advance reimbursements of expenses in accordance with the terms of this agreement, RP Financial shall have all remedies available at law or in equity to enforce such obligation.

It is understood that, in connection with RP Financial's above-mentioned engagement, RP Financial may also be engaged to act for the Bank in one or more additional capacities, and that the terms of the original engagement may be embodied in one or more separate agreements. The provisions of Paragraph 3 herein shall apply to the original engagement, any such additional engagement, any modification of the original engagement or such additional engagement and shall remain in full force and effect following the completion or termination of RP Financial's engagement(s). This agreement constitutes the entire understanding of the Bank and RP Financial concerning the subject matter addressed herein, and such contract shall be governed and construed in accordance with the laws of the Commonwealth of Virginia. This agreement may not be modified, supplemented or amended except by written agreement executed by both parties.

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*Board of Directors  
January 7, 2002  
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Pacific Trust and RP Financial are not affiliated, and neither Pacific Trust nor RP Financial has an economic interest in, or is held in common with, the other and has not derived a significant portion of its gross revenues, receipts or net income for any period from transactions with the other.

\* \* \* \* \*

Please acknowledge your agreement to the foregoing by signing as indicated below and returning to RP Financial a signed copy of this letter, together with the initial retainer fee of \$5,000.

Sincerely,

Ronald S. Riggins  
President and Managing Director

Agreed To                      Hans R. Ganz  
and Accepted By:            President and Chief Executive Officer

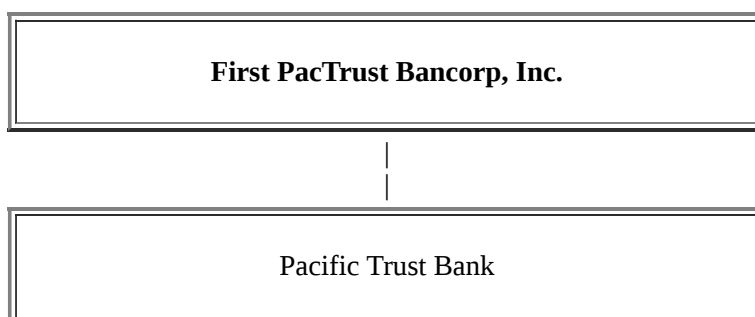
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Upon Authorization by the Board of Directors For:  
Pacific Trust Bank, Chula Vista, California

Date Executed: \_\_\_\_\_

End.

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**SUBSIDIARIES OF THE REGISTRANT**

## CONSENT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

We consent to the use in this Registration Statement on Form S-1 filed with the Securities and Exchange Commission and Form AC filed with the Office of Thrift Supervision of our report dated January 12, 2002 on the financial statements of Pacific Trust Bank for the year ended December 31, 2001. We also consent to the references to us under the headings "Pacific Trust Bank's Conversion - Tax Effects of the Conversion", "Experts", and "Legal and Tax Opinions" in this Registration Statement on Form S-1 and Form AC.

/s/ Crowe, Chizek and Company LLP

Crowe, Chizek and Company LLP

Oak Brook, Illinois  
March 27, 2002

March 26, 2002

Board of Directors  
Pacific Trust Bank  
610 Bay Boulevard  
Chula Vista, California 91910

Members of the Board:

We hereby consent to the use of our firm's name in the Form AC Application for Conversion, the Form H-(e)1 holding company application, and in the Form S-1 Registration Statement for First PacTrust Bancorp, Inc., in each case as amended and supplemented. We also hereby consent to the inclusion of, summary of and references to our Appraisal and our statement concerning subscription rights in such filings including the prospectus of First PacTrust Bancorp, Inc.

Sincerely,

/s/ RP FINANCIAL, LC.

RP FINANCIAL, LC.

Any member giving a proxy may revoke it at any time before it is voted by delivering to the Secretary of Pacific Trust Bank either a written revocation of the proxy, or a duly executed proxy bearing a later date, or by voting in person at the Special Meeting.

The undersigned hereby acknowledges receipt of a Notice of Special Meeting of Members to be held on the \_\_\_th day of June, 2002 and a Proxy Statement for the Special Meeting prior to the signing of this proxy.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

NOTE: Please sign exactly as your name(s) appear(s) on this Proxy. Only one signature is required in the case of a joint account. When signing in a representative capacity, please give title.

**IMPORTANT: Please Detach, Sign and Return "ALL" proxies from "ALL" packets received in the enclosed postage paid envelope. FAILURE TO VOTE IS EFFECTIVELY THE SAME AS A "NO" VOTE.**

### First PacTrust Bancorp, Inc.

279 F Street  
Chula Vista, California \_\_\_\_\_  
( ) \_\_\_\_ - \_\_\_\_

### Stock Order and Certification Form

**Deadline:** The Subscription Offering ends at 12:00 Noon, California Time, on June \_\_, 2002. Your original Stock Order and Certification Form, properly executed and with the correct payment, must be received (not postmarked) at the address on the top of this form, or at a Pacific Trust Bank office, by the deadline, or it will be considered void. **Faxes or copies of this form will not be accepted.**

(1) Number of Shares \_\_\_\_\_ Price Per Share \_\_\_\_\_ (2) Total Amount Due \_\_\_\_\_  
 X \$10.00 = \$ \_\_\_\_\_  
 Minimum - 25 shares  
 Maximum - 50,000 shares

#### Method of Payment

- (3) ☐ Enclosed is a check, bank draft or money order payable to First PacTrust Bancorp, Inc. for \$ \_\_\_\_\_.
- (4) ☐ I authorize Pacific Trust Bank to make withdrawal from my certificate or savings account(s) (not checking account) shown below, and understand that the amount will not otherwise be available for withdrawal:

| Account Number(s)       | Amount(s) |
|-------------------------|-----------|
|                         |           |
|                         |           |
|                         |           |
|                         |           |
| <b>Total Withdrawal</b> |           |

There is \$0 penalty for early withdrawal.

#### (5) Purchaser Information (check one)

- a. ☐ **Eligible Account Holder** - Check box if you were a depositor with at least \$50 on deposit with Pacific Trust Bank as of December 31, 1999. Give information in Section 2 for all deposit accounts that you had at Pacific Trust Bank as December 31, 1999.
- b. ☐ **Supplemental Eligible Account Holder** - Check box if you were a depositor with at least \$50 on deposit with Pacific Trust Bank as of March 31, 2002 but are not an Eligible Account Holder. Give information in Section 2 for all deposit accounts that you had at Pacific Trust Bank as March 31, 2002.
- c. ☐ **Other Member** - Check box if you were a depositor of Pacific Trust Bank as of \_\_, 2002, but are not an Eligible Account Holder or a Supplemental Eligible Account Holder. Give information in Section 2 for all accounts that you had at Pacific Trust Bank as \_\_, 2002.
- d. ☐ **Director, Officer and Employee of Pacific Trust Bank** to the extent you are not included in a, b or c.
- e. ☐ **Local Community - San Diego and Riverside Counties, California**
- f. ☐ **General Public**

- (6) ☐ Check box if you are a director, officer or employee of Pacific Trust Bank or a member of such person's immediate family (same household).

- (7) ☐ **NASD Affiliation** - see description on reverse side of this form.

- (8) Please review the preprinted account information listed below. The account printed below may not be all of your qualifying accounts or any of your accounts as of the earliest of the three dates if you have changed names on the accounts. You should list any other accounts that you may have or had with Pacific Trust Bank in the box below. **SEE THE STOCK ORDER FORM INSTRUCTIONS SHEET FOR FURTHER INFORMATION.** All subscription orders are subject to the provisions of the Plan of Conversion.

#### Additional Qualifying Accounts

| Account Title (Names on Accounts) | Account Number |
|-----------------------------------|----------------|
|                                   |                |
|                                   |                |
|                                   |                |
|                                   |                |

Please Note: Failure to list all of your accounts may result in the loss of part or all of your subscription rights. (additional space on back of form)

#### (9) Stock Registration - Please **Print Legibly** and **Fill Out Completely**

(Note: The stock certificate and all correspondence related to this stock order will be mailed to the address provided below)

- ☐ Individual ☐ Uniform Transfer to Minors Act ☐ Partnership ☐ Fiduciary/Trust (Under Agreement Dated \_\_\_\_\_)
- ☐ Joint Tenants ☐ Uniform Gift to Minors Act ☐ Individual Retirement Account
- ☐ Tenants in Common ☐ Corporation

|                                       |  |                                 |  |
|---------------------------------------|--|---------------------------------|--|
| Name _____                            |  | Social Security or Tax ID _____ |  |
| Name _____                            |  | Social Security or Tax ID _____ |  |
| Mailing Address _____                 |  | Daytime Telephone _____         |  |
| City _____ State _____ Zip Code _____ |  | Evening Telephone _____         |  |
| County _____                          |  |                                 |  |

**Acknowledgment:** By signing below, I acknowledge receipt of the Prospectus dated \_\_, 2002 and understand I may not change or revoke my order once it is received by First PacTrust Bancorp, Inc. I also certify that the stock order is for my account and there is no agreement or understanding regarding any future sale or transfer of these shares. Applicable regulations prohibit any person from transferring, or causing any agreement directly or indirectly to transfer, the legal or beneficial ownership of subscription rights in the underlying securities to the account of another person. First PacTrust Bancorp, Inc. will pursue any and all legal and equitable remedies in the event it becomes aware of the transfer of subscription rights and will not honor orders known by it to involve such transfer. Under penalty of perjury, I further certify that: (1) the stock account number on my paper identification number given above is correct, and (2) I am not subject to backup withholding. You must certify under item (2) in this acknowledgment if you have been notified by the Internal Revenue Service that you are subject to backup withholding because of under-reporting interest or dividends on your tax return. By signing below, I also acknowledge that I have not waived my rights under the Securities Exchange Act of 1933 and the Securities Exchange Act of 1934, both as amended.

**Signature: THIS FORM MUST BE SIGNED AND DATED BELOW AND ON THE BACK OF THE FORM.** This order is not valid if the Stock Order and Certification Form are not both signed and properly completed. Your order will be filled in accordance with the provisions of the Plan of Conversion as described in the Prospectus. An additional signature is required only if payment is by withdrawal from an account that requires more than one signature to withdraw funds.

|                 |            |
|-----------------|------------|
| Signature _____ | Date _____ |
| Signature _____ | Date _____ |

|                               |                |
|-------------------------------|----------------|
| <b>Office Use Only</b>        | Check # _____  |
| Date Rec'd _____ / _____      | Cl. Amt. _____ |
| Batch # _____ - Order # _____ | Category _____ |

## Pacific Trust Bank

## REVOCABLE PROXY

**THIS PROXY IS SOLICITED BY THE BOARD OF DIRECTORS OF PACIFIC TRUST BANK FOR USE AT A SPECIAL MEETING OF MEMBERS TO BE HELD ON JUNE \_\_, 2002 AND ANY ADJOURNMENT OF THAT MEETING, FOR THE PURPOSES SET FORTH IN THE FOREGOING NOTICE OF SPECIAL MEETING. YOUR BOARD OF DIRECTORS AND MANAGEMENT URGE YOU TO VOTE FOR THE PLAN OF CONVERSION.**

The undersigned being a member of Pacific Trust Bank hereby authorizes the Board of Directors of Pacific Trust Bank or any successors in their respective positions, as proxy, with full powers of substitution, to represent the undersigned at the Special Meeting of Members of Pacific Trust Bank to be held at \_\_\_\_\_, at \_\_\_\_ p.m., California time, and any adjournment of said meeting to act with respect to all votes that the undersigned would be entitled to cast if then personally present as set forth below:

(1) To vote "FOR" or "AGAINST" a Plan of Conversion of Pacific Trust Bank pursuant to which Pacific Trust Bank will convert from a mutual savings bank to a stock corporation, including the adoption of amended and restated articles of incorporation and bylaws, with the concurrent sale of all the Bank's common stock to FirstPacTrust Bancorp, Inc., a Delaware corporation (the "Holding Company"), and sale by the Holding Company of shares of its common stock.

FOR ☐ AGAINST ☐

(2) To vote, in its discretion, upon such other business as may properly come before the Special Meeting or any adjournment thereof. Management's statement of any other such business that may come before the Special Meeting.

FOR ☐ AGAINST ☐

This proxy, if executed, will be voted "FOR" adoption of the Plan of Conversion and for adjournment of the Special Meeting, if necessary, if no choice is made herein. Please date and sign this proxy on the reverse side and return it in the enclosed envelope.

## First Pac Trust Bancorp, Inc.

**Item (7) continued - NASD Affiliation** (this section only applies to those individuals who meet the delineated criteria)

Check the box if you are a member of the National Association of Securities Dealers, Inc. ("NASD"), a person associated with an NASD member, a member of the immediate family of any such person to whose support such person contributes, directly or indirectly, or the holder of an account in which an NASD member or person associated with an NASD member has a beneficial interest. To comply with conditions under which an exemption from the NASD's Interpretation With Respect to Free-Riding and Withholding is available, you agree, if you have checked the NASD affiliation box: (1) not to sell, transfer or hypothecate the stock for a period of three months following the issuance and (2) to report this subscription in writing to the applicable NASD member within one day of the payment therefor.

**Item (8) continued; Purchaser Information**

| Account Title (Names on Accounts) | Account Number |
|-----------------------------------|----------------|
|                                   |                |
|                                   |                |
|                                   |                |
|                                   |                |
|                                   |                |
|                                   |                |

## CERTIFICATION FORM

(This Certification Form Must Be Signed In Addition to the Stock Order Form)

I ACKNOWLEDGE THAT THE SHARES OF COMMON STOCK, \$0.01 PAR VALUE PER SHARE, OF FIRST PAC TRUST BANCORP, INC. ARE NOT DEPOSITS OR AN ACCOUNT AND ARE NOT FEDERALLY INSURED OR GUARANTEED BY PACIFIC TRUST BANK OR BY THE FEDERAL GOVERNMENT.

If anyone asserts that the shares of Common Stock are federally insured or guaranteed, or are as safe as an insured deposit, I should call the Federal Deposit Insurance Corporation Deputy Regional Director - Division of Supervision, \_\_\_\_\_, at (\_\_\_\_) \_\_\_\_-\_\_\_\_.

I further certify that, before purchasing the Common Stock of First Pac Trust Bancorp, Inc. I received a copy of the Prospectus dated \_\_\_\_\_, 2002 which discloses the nature of the Common Stock being offered and describes the following risks involved in an investment in the Common Stock under the heading "Risk Factors" beginning on page 6 of the Prospectus:

1. Rising interest rates may hurt our profits.
2. Our loan portfolio possesses increased risk due to our substantial number of multi-family, commercial real estate and consumer loans.
3. Our loan portfolio possesses increased risk due to its rapid expansion and unseasoned nature.
4. After this offering, our return on equity will be low compared to other companies and our compensation expenses will increase. This could negatively impact the price of our stock.
5. We intend to grant stock options and restricted stock to the board and management following the conversion which could reduce your ownership interest.
6. The amount of common stock we will control, our charter and bylaws, and state and federal statutory provisions could discourage hostile acquisition of control.
7. Holders of First Pac Trust Bancorp, Inc. common stock may not be able to sell their shares when desired if a liquid trading market does not develop or for \$10.00 per share even if a liquid trading market develops.
8. If economic conditions deteriorate, our results of operations and financial condition could be adversely impacted as borrowers' ability to repay loans declines and the value of the collateral securing our loans decreases.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

(Note: If shares are to be held jointly, both parties must sign)

EXECUTION OF THIS CERTIFICATION FORM WILL NOT CONSTITUTE A WAIVER OF ANY RIGHTS THAT A PURCHASER MAY HAVE UNDER THE SECURITIES ACT OF 1933 AND THE SECURITIES EXCHANGE ACT OF 1934, BOTH AS AMENDED. THE SHARES OF COMMON STOCK BEING OFFERED ARE NOT SAVINGS ACCOUNTS OR DEPOSITS AND ARE NOT INSURED OR GUARANTEED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENT AGENCY.

*All subscription orders are subject to the provisions of the Plan of Conversion.*

**Items 1 and 2** - Fill in the number of shares that you wish to purchase and the total payment due. The amount due is determined by multiplying the number of shares ordered by the subscription price of \$10.00 per share. The minimum purchase is 25 shares. The maximum purchase for any person or persons acting in concert is generally \$500,000 or 50,000 shares of common stock. For additional information and limits, see "The Conversion - Limitations on Stock Purchases" in the Prospectus.

**Item 3** - Payment for shares may be made in cash (only if delivered by you in person, although we request that you exchange the cash for a check with a teller at Pacific Trust Bank ) or by check, bank draft or money order payable to First PacTrust Bancorp, Inc. DO NOT MAIL CASH. Your funds will earn interest at the passbook rate until the Conversion is completed.

**Item 4** - To pay by withdrawal from a savings account or certificate of deposit at Pacific Trust Bank, insert the account number(s) and the amount(s) you wish to withdraw from each account. If more than one signature is required for a withdrawal, all signatories must sign in the signature box on the front of this form. **To withdraw from an account with checking privileges, please write a check.** Pacific Trust Bank will waive any applicable penalties for early withdrawal from certificate of deposit accounts. A hold will be placed on the account(s) for the amount(s) you indicate to be withdrawn. Payments will remain in the account(s) until the stock offering closes and earn their respective rate of interest.

**Item 5** - Please check the appropriate box to tell us the earliest of the three dates that applies to you.

**Item 6** - Please check this box if you are a director, officer or employee of Pacific Trust Bank, or a member of such person's household.

**Item 7** - Please check this box if you have a National Association of Securities Dealers, Inc. ("NASD") affiliation (as defined on the reverse side of the Stock Order Form.)

**Item 8** - Please review the preprinted qualifying account number(s) information. **The account number(s) listed may not be all of your account number(s).** You should list any other qualifying accounts that you may have or had with Pacific Trust Bank in the box located under the heading "Additional Qualifying Accounts". These may appear on other Stock Order Forms you have received. For example, if you are ordering stock in just your name, you should list all of your deposit accounts as of the earliest of the three dates that you were a depositor. Similarly, if you are ordering stock jointly with another depositor, you should list all deposit accounts under which either of you are owners, i.e. individual accounts, joint accounts, etc. If you are ordering stock in your minor child's or grandchild's name under the **Uniform Transfers to Minors Act**, the minor must have had a deposit account on one of the three dates and you should list only their account number(s). If you are ordering stock corporately, you need to list just that corporation's deposit accounts, as your individual account(s) do not qualify. **Failure to list all of your qualifying accounts may result in the loss of part or all of your subscription rights.**

**Item 9** - The stock transfer industry has developed a uniform system of shareholder registrations that we will use in the issuance of First PacTrust Bancorp, Inc. common stock. Please complete this section as fully and accurately as possible, and be certain to supply your social security or Tax I.D. number(s) and your daytime and evening phone numbers. We will need to call you if we cannot execute your order as given. If you have any questions regarding the registration of your stock, please consult your legal advisor. **Subscription rights are not transferable.** If you are an eligible or supplemental eligible account holder or other member, to protect your priority over other purchasers as described in the Prospectus, you must take ownership in at least one of the account holder's names.

## Please be sure to sign the certification form on the back of the form

*(See Reverse Side for Stock Ownership Guide)*

**Individual** - The stock is to be registered in an individual's name only. You may not list beneficiaries for this ownership.

**Joint Tenants** - Joint tenants with rights of survivorship identifies two or more owners. When stock is held by joint tenants with rights of survivorship, ownership automatically passes to the surviving joint tenant(s) upon the death of any joint tenant. You may not list beneficiaries for this ownership.

**Tenants in Common** - Tenants in common may also identify two or more owners. When stock is to be held by tenants in common, upon the death of one co-tenant, ownership of the stock will be held by the surviving co-tenant(s) and by the heirs of the deceased co-tenant. All parties must agree to the transfer or sale of shares held by tenants in common. You may not list beneficiaries for this ownership.

**Uniform Transfers To Minors Act** - For residents of **California** and many states, stock may be held in the name of a custodian for the benefit of a minor under the **Uniform Transfers to Minors Act**. For residents in other states, stock may be held in a similar type of ownership under the **Uniform Gifts to Minors Act** of the individual state. For either ownership, the minor is the actual owner of the stock with the adult custodian being responsible for the investment until the child reaches legal age. Only one custodian and one minor may be designated.

**Instructions:** On the first name line, print the first name, middle initial and last name of the custodian, with the abbreviation "CUST" after the name. Print the first name, middle initial and last name of the minor on the second name line followed by the notation UTMA-CA or UGMA-Other State. **List only the**

**minor's social security number.**

**Corporation/Partnership** - Corporations/Partnerships may purchase stock. Please provide the Corporation/Partnership's legal name and Tax I.D. number. To have depositor rights, the Corporation/Partnership must have an account in its legal name. Please contact the Stock Information Center to verify depositor rights and purchase limitations.

**Individual Retirement Account** - Individual Retirement Account ("IRA") holders may make stock purchases from their deposits through a **prearranged** "trustee-to-trustee" transfer. Stock may only be held in a self-directed IRA. Please contact the Stock Information Center if you have any questions about your IRA account and **please do not delay** in exploring this option.

Registration for IRA's: On Name Line 1 - list the name of the broker or trust department followed by CUST or TRUSTEE.

On Name Line 2 - FBO (for benefit of) YOUR NAME IRA a/c #\_\_\_\_\_.

Address will be that of the broker / trust department to where the stock certificate will be sent.

The Social Security / Tax I.D. number(s) will be either yours or your trustees, **as they direct**.

Please list **your** phone numbers.

**Fiduciary/Trust** - Generally, fiduciary relationships (such as Trusts, Estates, Guardianships, etc.) are established under a form of trust agreement or pursuant to a court order. Without a legal document establishing a fiduciary relationship, your stock may not be registered in a fiduciary capacity.

*Instructions:* On the first name line, print the first name, middle initial and last name of the fiduciary if the fiduciary is an individual. If the fiduciary is a corporation, list the corporate title on the first name line. Following the name, print the fiduciary title such as trustee, executor, personal representative, etc. On the second name line, print the name of the maker, donor or testator or the name of the beneficiary. Following the name, indicate the type of legal document establishing the fiduciary relationship (agreement, court order, etc.). In the blank after "Under Agreement Dated," fill in the date of the document governing the relationship. The date of the document need not be provided for a trust created by a will.

*(See Reverse Side for Stock Order Form Instructions)*

June 4, 2001

Mr. Hans Ganz  
President and CEO  
Pacific Trust Bank  
60 Bay Boulevard  
Chula Vista, CA 91910

Dear Mr. Ganz:

This proposal is in connection with Pacific Trust Bank (the "Client" or "Bank") intention to convert from a mutual to a capital stock form of organization (the "Conversion"). In order to effect the Conversion, it is contemplated that all of the Bank's common stock to be outstanding pursuant to the Conversion will be issued to a holding company (the "Company") to be formed by the Bank, and that the Company will offer and sell shares of its common stock first to eligible persons (pursuant to the Bank's Plan of Conversion) in a Subscription and Community Offering.

Keefe, Bruyette and Woods, Inc. ("KBW") will act as the Bank's and the Company's exclusive financial advisor and marketing agent in connection with the Conversion and stock issuance. This letter sets forth selected terms and conditions of our engagement.

1. Advisory/Conversion Services. As the Bank's and Company's financial advisor and marketing agent, KBW will provide the Bank and the Company with a comprehensive program of services designed to promote an orderly, efficient, cost-effective and long-term stock distribution. KBW will provide financial and logistical advice to the Bank and the Company concerning the Conversion and related issues. KBW will assist in providing Conversion enhancement services intended to maximize stock sales in the Subscription Offering and to residents of the Bank's market area, if necessary, in the Community Offering.

KBW shall provide financial advisory services to the Bank which are typical in connection with an equity offering and include, but are not limited to, overall financial analysis of the Client with a focus on identifying factors which impact the valuation of the common stock and provide the appropriate recommendations for the betterment of the equity valuation.

Additionally, post Conversion financial advisory services will include advice on shareholder relations, after-market trading, dividend policy (for both regular and special dividends), stock repurchase strategy and communication with market makers. Prior to the closing of the Conversion, KBW shall furnish to client a Post-Conversion reference manual, which will include

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Mr. Hans Ganz  
June 4, 2001  
Page 2 of 5

specifics relative to these items. (The nature of the services to be provided by KBW as the Bank's and the Company's financial advisor and marketing agent is further described in Exhibit A attached hereto.)

2. Preparation of Offering Documents. The Bank, the Company and their counsel will draft the Registration Statement, Application for Conversion, Prospectus and other documents to be used in connection with the Conversion and minority stock issuance. KBW will attend meetings to review these documents and advise you on their form and content. KBW and its counsel will draft appropriate agency agreement and related documents as well as marketing materials other than the Prospectus.

3. Due Diligence Review. Prior to filing the Registration Statement, Application for Conversion or any offering or other documents naming KBW as the Bank's and the Company's financial advisor and marketing agent, KBW and their representatives will undertake substantial investigations to learn about the Bank's business and operations ("due diligence review") in order to confirm information provided to us and to evaluate information to be contained in the Bank's and/or the Company's offering documents. The Bank agrees that it will make available to KBW all relevant information, whether or not publicly available, which KBW reasonably requests, and will permit KBW to discuss with management the operations and prospects of the Bank. KBW will treat all material non-public information as confidential. The Bank acknowledges that KBW will rely upon the accuracy and

completeness of all information received from the Bank, its officers, directors, employees, agents and representatives, accountants and counsel including this letter to serve as the Bank's and the Company's financial advisor and marketing agent.

4. Regulatory Filings. The Bank and/or the Company will cause appropriate Conversion and offering documents to be filed with all regulatory agencies including, the Securities and Exchange Commission ("SEC"), the National Association of Securities Dealers ("NASD"), the Office of Thrift Supervision ("OTS"), and such state securities commissioners as may be determined by the Bank.
5. Agency Agreement. The specific terms of KBW's services, including stock offering enhancement and syndicated offering services contemplated in this letter shall be set forth in a mutually agreed upon Agency Agreement between KBW and the Bank and the Company to be executed prior to commencement of the offering, and dated the date that the Company's Prospectus is declared effective and/or authorized to be disseminated by the appropriate regulatory agencies, the SEC, the NASD, the OTS and such state securities commissioners and other regulatory agencies as required by applicable law.
6. Representations, Warranties and Covenants. The Agency Agreement will provide for to be agreed upon representations, warranties and covenants by the Bank and KBW, and for the Company to indemnify KBW and their controlling persons (and, if applicable, the members of the selling group and their controlling persons), and for KBW to indemnify the Bank and the

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Mr. Hans Ganz  
June 4, 2001  
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Company against certain liabilities, including, without limitation, liabilities under the Securities Act of 1933.

7. Fees. For the services hereunder, the Bank and/or Company shall pay the following fees to KBW at closing unless stated otherwise:
  - (a) Management Fee. A Management Fee of \$25,000 payable in four consecutive monthly installments of \$6,250 commencing with the adoption of the Plan of Conversion. Such fees shall be deemed to have been earned when due. Should the Conversion be terminated for any reason not attributable to the action or inaction of KBW, KBW shall have earned and be entitled to be paid fees accruing through the stage at which point the termination occurred.
  - (b) Success Fee: A Success Fee of 1.5% shall be charged based on the aggregate Purchase Price of Common Stock sold in the Subscription Offering and Community Offering excluding shares purchased by the Bank's officers, directors, or employees (or members of their immediate family) plus any ESOP, tax-qualified or stock based compensation plans (except IRA's) or similar plan created by the Bank for some or all of its directors or employees. The Management Fee described in 7(a) will be applied against the Success Fee.
  - (c) Broker-Dealer Pass-Through. If any shares of the Company's stock remain available after the subscription offering, at the request of the Bank, KBW will seek to form a syndicate of registered broker-dealers to assist in the sale of such common stock on a best efforts basis, subject to the terms and conditions set forth in the selected dealers agreement. KBW will endeavor to distribute the common stock among dealers in a fashion which best meets the distribution objectives of the Bank and the Plan of Conversion. KBW will be paid a fee not to exceed 5.5% of the aggregate Purchase Price of the shares of common stock sold by them. From this fee, KBW will pass onto selected broker-dealers, who assist in the syndicated community, an amount competitive with gross underwriting discounts charged at such time for comparable amounts of stock sold at a comparable price per share in a similar market environment. Fees with respect to purchases affected with the assistance of a broker/dealer other than KBW shall be transmitted by KBW to such broker/dealer. **The decision to utilize selected broker-dealers will be made by the Bank** upon consultation with KBW. In the event, with respect to any stock purchases, fees are paid pursuant to this subparagraph 7(c), such fees shall be in lieu of, and not in addition to, payment pursuant to subparagraph 7(b).
8. Additional Services. **KBW further agrees to provide financial advisory assistance to the Company and the Bank for a period of one year following completion of the Conversion, including formation of a dividend policy and share repurchase program,**

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**assistance with shareholder reporting and shareholder relations matters, general advice on mergers and acquisitions and other related financial matters, without the payment by the Company and the Bank of any fees in addition to those set forth in Section 7 hereof.** Nothing in this Agreement shall require the Company and the Bank to obtain such services from KBW. Following this initial one year term, if both parties wish to continue the relationship, a fee will be negotiated and an agreement entered into at that time.

9. Expenses. The Bank will bear those expenses of the proposed offering customarily borne by issuers, including, without limitation, regulatory filing fees, SEC, "Blue Sky," and NASD filing and registration fees; the fees of the Bank's accountants, attorneys, appraiser, transfer agent and registrar, printing, mailing and marketing and syndicate expenses associated with the Conversion; the fees set forth in Section 7; and fees for "Blue Sky" legal work. If KBW incurs expenses on behalf of Client, Client will reimburse KBW for such expenses.

KBW shall be reimbursed for reasonable out-of-pocket expenses, including costs of travel, meals and lodging, photocopying, telephone, facsimile and couriers. The selection of KBW's counsel will be done by KBW, with the approval of the Bank. The Bank will reimburse KBW for the fees and expenses of its counsel which will not exceed \$35,000.

10. Conditions. KBW's willingness and obligation to proceed hereunder shall be subject to, among other things, satisfaction of the following conditions in KBW's opinion, which opinion shall have been formed in good faith by KBW after reasonable determination and consideration of all relevant factors: (a) full and satisfactory disclosure of all relevant material, financial and other information in the disclosure documents and a determination by KBW, in its sole discretion, that the sale of stock on the terms proposed is reasonable given such disclosures; (b) no material adverse change in the condition or operations of the Bank subsequent to the execution of the agreement; and (c) no adverse market conditions at the time of offering which in KBW's opinion make the sale of the shares by the Company inadvisable.

12. Benefit. This Agreement shall inure to the benefit of the parties hereto and their respective successors and to the parties indemnified pursuant to the terms and conditions of the Agency Agreement and their successors, and the obligations and liabilities assumed hereunder by the parties hereto shall be binding upon their respective successors provided, however, that this Agreement shall not be assignable by KBW.

13. Definitive Agreement. This letter reflects KBW's present intention of proceeding to work with the Bank on its proposed Conversion and minority stock issuance. It does not create a binding obligation on the part of the Bank, the Company or KBW except as to the agreement to maintain the confidentiality of non-public information set forth in Section 3, the payment of certain fees as set forth in Section 7(a) and 7(b) and the assumption of expenses as set forth in Section 9, all of which shall constitute the binding obligations of the parties hereto and which shall survive the termination of this Agreement or the completion of the services furnished hereunder and shall remain operative and in full force and effect. You further acknowledge that

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any report or analysis rendered by KBW pursuant to this engagement is rendered for use solely by the management of the Bank and its agents in connection with the Conversion. Accordingly, you agree that you will not provide any such information to any other person without our prior written consent.

KBW acknowledges that in offering the Company's stock no person will be authorized to give any information or to make any representation not contained in the offering prospectus and related offering materials filed as part of a registration statement to be declared effective in connection with the offering. Accordingly, KBW agrees that in connection with the offering it will not give any unauthorized information or make any unauthorized representation. We will be pleased to elaborate on any of the matters discussed in this letter at your convenience.

If the foregoing correctly sets forth our mutual understanding, please so indicate by signing and returning the original copy of this letter to the undersigned.

Very truly yours,

KEEFE, BRUYETTE & WOODS, INC.

By: /s/ Patricia A. McJoynt

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Patricia A. McJoynt  
Managing Director

PACIFIC TRUST BANK

By: /s/ Hans R. Ganz

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Date: January 31, 2002

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Hans Ganz  
President and CEO

[Exhibit A](#)

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## **EXHIBIT A**

### CONVERSION SERVICES PROPOSAL

#### TO PACIFIC TRUST BANK

KBW provides thrift institutions converting from the mutual to stock form of ownership with a comprehensive program of stock issuance services designed to promote an orderly, efficient, cost-effective and long-term stock distribution. The following list is representative of the stock issuance services, if appropriate, we propose to perform on behalf of the Bank.

#### General Services

Assist management and legal counsel with the design of the transaction structure.

Analyze and make recommendations on bids from printing, transfer agent, and appraisal firms.

Assist officers and directors in obtaining bank loans to purchase stock, if requested.

Assist in drafting and distribution of press releases as required or appropriate.

#### Stock Offering Enhancement Services

Establish and manage Stock Information Center at the Bank. Stock Information Center personnel will track prospective investors; record stock orders; mail order confirmations; provide the Bank's senior management with daily reports; answer customer inquiries; and handle special situations as they arise.

Assign KBW's personnel to be at the Bank through completion of the Subscription and Community Offerings to manage the Stock Information Center, meet with prospective shareholders at individual and community information meetings (if applicable), solicit local investor interest through a tele-marketing campaign, answer inquiries, and otherwise assist in the sale of stock in the Subscription and Community Offerings. This effort will be lead by a Principal of KBW.

Create target investor list based upon review of the Bank's depositor base.

Provide intensive financial and marketing input for drafting of the prospectus.

#### Stock Offering Enhancement Services- Continued

Prepare other marketing materials, including prospecting letters and brochures, and media advertisements.

Arrange logistics of community information meeting(s) as required.

Prepare audio-visual presentation by senior management for community information meeting(s).

Prepare management for question-and-answer period at community information meeting(s).

Attend and address community information meeting(s) and be available to answer questions.

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Broker-Assisted Sales Services.

Arrange for broker information meeting(s) as required.

Prepare audio-visual presentation for broker information meeting(s).

Prepare script for presentation by senior management at broker information meeting(s).

Prepare management for question-and-answer period at broker information meeting(s).

Attend and address broker information meeting(s) and be available to answer questions.

Produce confidential broker memorandum to assist participating brokers in selling the Bank's common stock.

After-market Support Services.

KBW will use their best efforts to secure trading and on-going research commitment from at least two NASD firms, one of which will be Keefe, Bruyette & Woods, Inc.

End.

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# RP FINANCIAL, LC.

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Financial Services Industry Consultants

January 7, 2002

Mr. Hans R. Ganz  
President and Chief Executive Officer  
Pacific Trust Bank  
610 Bay Boulevard  
Chula Vista, California 91910

Dear Mr. Ganz:

This letter sets forth the agreement between Pacific Trust Bank, Chula Vista, California ("Pacific Trust" or the "Bank"), and RP Financial, LC. ("RP Financial"), whereby the Bank has engaged RP Financial to prepare the regulatory business plan and financial projections to be adopted by the Bank's Board of Directors in conjunction with the stock conversion transaction, whereby the Bank will become a wholly-owned subsidiary of a stock holding company. These services are described in greater detail below.

## Description of Proposed Services

RP Financial's business planning services will include the following areas: (1) evaluating Pacific Trust's current financial and operating condition, business strategies and anticipated strategies in the future; (2) analyzing and quantifying the impact of business strategies, incorporating the use of net conversion proceeds both in the short and long term; (3) preparing detailed financial projections on a quarterly basis for a period of at least three fiscal years to reflect the impact of Board approved business strategies and use of proceeds; (4) preparing the written business plan document which conforms with applicable regulatory guidelines including a description of the use of proceeds and how the convenience and needs of the community will be addressed; and (5) preparing the detailed schedules of the capitalization of the Bank and holding company and related cash flows.

Contents of the business plan will include: Philosophy/Goals; Economic Environment and Background; Lending, Leasing and Investment Activities; Deposit, Savings and Borrowing Activity; Asset and Liability Management; Operations; Records, Systems and Controls; Growth, Profitability and Capital; Responsibility for Monitoring this Plan.

RP Financial agrees to prepare the business plan and accompanying financial projections in writing such that the business plan can be filed with the appropriate regulatory agencies prior to filing the appropriate applications.

## Fee Structure and Payment Schedule

The Bank agrees to compensate RP Financial for preparation of the business plan on a fixed fee basis of \$10,000. Payment of the professional fees shall be made upon delivery of the completed business plan.

The Bank also agrees to reimburse RP Financial for those direct out-of-pocket expenses necessary and incidental to providing the business planning services. Reimbursable expenses will likely include shipping, telephone/facsimile printing, computer and data services, and shall be paid to RP Financial as incurred and billed. RP Financial will agree to limit reimbursable expenses in conjunction with the appraisal engagement, subject to written authorization from the Bank to exceed such level.

In the event the Bank shall, for any reason, discontinue this planning engagement prior to delivery of the completed business plan and payment of the progress payment fee, the Bank agrees to compensate RP Financial according to RP Financial's standard billing rates for consulting services based on accumulated and verifiable time expenses, not to exceed the fixed fee described above, plus reimbursable expenses incurred.

If during the course of the planning engagement, unforeseen events occur so as to materially change the nature or the work content of the business planning services described in this contract, the terms of said contract shall be subject to renegotiation by the Bank and RP Financial. Such unforeseen events may include changes in regulatory requirements as it specifically relates to Pacific Trust or potential transactions which will dramatically impact the Bank such as a pending acquisition or branch transaction.

\* \* \* \* \*

Please acknowledge your agreement to the foregoing by signing as indicated below and returning to RP Financial a signed copy of this letter.

Sincerely,

Ronald S. Riggins  
President and Managing Director

Agreed To                      Hans R. Ganz  
and Accepted By:            President and Chief Executive Officer

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Upon Authorization by the Board of Directors For:  
Pacific Trust Bank, Chula Vista, California

Date Executed: \_\_\_\_\_

End.

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May \_\_, 2002

Dear Member:

We are pleased to announce that Pacific Trust Bank is converting from the mutual to the stock form of organization (the "Conversion"), upon the completion of the conversion, Pacific Trust Bank will then become a wholly-owned subsidiary of a new holding company, First PacTrust Bancorp, Inc. In connection with the Conversion, First PacTrust Bancorp, Inc. is offering shares of its common stock in a subscription offering pursuant to a Plan of Conversion.

Unfortunately, First PacTrust Bancorp, Inc. is unable to either offer or sell its common stock to you because the small number of eligible subscribers in your jurisdiction makes registration or qualification of the common stock under the securities laws of your jurisdiction impractical, for reasons of cost or otherwise. Accordingly, this letter should not be considered an offer to sell or a solicitation of an offer to buy the common stock of FirstPac Trust Bancorp, Inc.

However, as a member of Pacific Trust Bank, you have the right to vote on the Plan of Conversion at the Special Meeting of Members to be held on June \_\_, 2002. Therefore, enclosed is a proxy card, a proxy statement (which includes the Notice of the Special Meeting), a Prospectus (which contains information incorporated into the proxy statement) and a return envelope for your proxy card.

We invite you to attend the Special Meeting of Members on June 20, 2002. However, whether or not you are able to attend the meeting, please complete the enclosed proxy card and return it in the enclosed envelope.

Sincerely,

Hans R. Ganz  
President and Chief Executive Officer

THE SHARES OF COMMON STOCK BEING OFFERED ARE NOT SAVINGS ACCOUNTS OR DEPOSITS AND ARE NOT INSURED OR GUARANTEED BY FIRST PACTRUST BANCORP, INC., PACIFIC TRUST BANK, THE FEDERAL DEPOSIT INSURANCE CORPORATION, THE SAVINGS ASSOCIATION INSURANCE FUND OR ANY OTHER GOVERNMENT AGENCY. THIS IS NOT AN OFFER TO SELL OR A SOLICITATION OF AN OFFER TO BUY COMMON STOCK. THE OFFER IS MADE ONLY BY THE PROSPECTUS.

[Next Document](#)

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May \_\_, 2002

Dear Member:

We are pleased to announce that Pacific Trust Bank is converting from the mutual to the stock form of organization (the "Conversion"). In connection with the Conversion, First PacTrust Bancorp, Inc., the newly-formed holding company for Pacific Trust, is offering common stock in a subscription offering pursuant to a Plan of Conversion.

To accomplish this Conversion, we need your participation in an important vote. Enclosed is a proxy statement describing the Plan of Conversion and your voting and subscription rights. **YOUR VOTE IS VERY IMPORTANT.**

Enclosed, as part of the proxy materials, is your proxy card, the detachable section on top of the order form having your name and address. This proxy card should be signed and returned to us prior to the Special Meeting of Members to be held on June \_\_, 2002. Please take a moment now to sign the enclosed proxy card and return it to us in the postage-paid envelope provided. **FAILURE TO VOTE HAS THE SAME EFFECT AS VOTING AGAINST THE CONVERSION.**

The Board of Directors believes the Conversion will offer a number of advantages, such as an opportunity for depositors of Pacific Trust Bank to become shareholders. Please remember:

- Your deposit accounts will continue to be insured up to the maximum legal limit by the Federal Deposit Insurance Corporation ("FDIC").
- There will be no change in the balance, interest rate or maturity of any deposit account or loan because of the Conversion.
- Members have a right, but not an obligation, to buy First PacTrust Bancorp, Inc. common stock and may do so without the payment of a commission or fee before it is offered to the general public.
- Like all stock, shares of First PacTrust Bancorp, Inc. common stock issued in this offering will not be insured by the FDIC.

Enclosed is a prospectus containing a complete discussion of the stock offering. We urge you to read this material carefully. If you are interested in purchasing the common stock of First PacTrust Bancorp, Inc. you must submit your Stock Order and Certification Form and payment prior to 12:00 Noon, California time, on June \_\_, 2002.

If you have additional questions regarding the offering, please call us at (\_\_\_\_) \_\_\_\_-\_\_\_\_, Monday, through Friday, 9:00 AM to 5:00 PM, or stop by our Stock Information Center located at 279 F Street in Chula Vista.

Sincerely,

Hans R. Ganz  
President and Chief Executive Officer

THE SHARES OF COMMON STOCK BEING OFFERED ARE NOT SAVINGS ACCOUNTS OR DEPOSITS AND ARE NOT INSURED OR GUARANTEED BY FIRST PACTRUST BANCORP, INC., PACIFIC TRUST BANK, THE FEDERAL DEPOSIT INSURANCE CORPORATION, THE SAVINGS ASSOCIATION INSURANCE FUND OR ANY OTHER GOVERNMENT AGENCY. THIS IS NOT AN OFFER TO SELL OR A SOLICITATION OF AN OFFER TO BUY COMMON STOCK. THE OFFER IS MADE ONLY BY THE PROSPECTUS.

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May \_\_, 2002

Dear Prospective Investor:

We are pleased to announce that Pacific Trust Bank is converting from the mutual to the stock form of organization (the "Conversion"). In connection with the Conversion, First PacTrust Bancorp, Inc., the newly-formed holding company for Pacific Trust Bank, is offering common stock in a subscription and community offering pursuant to a Plan of Conversion.

We have enclosed the following materials that will help you learn more about the merits of First PacTrust Bancorp, Inc. common stock as an investment. Please read and review the materials carefully.

**PROSPECTUS:** This document provides detailed information about operations at Pacific Trust Bank and a complete discussion on the proposed stock offering.

**QUESTIONS AND ANSWERS:** Key questions and answers about the stock offering are found in this pamphlet.

**STOCK ORDER AND CERTIFICATION FORM:** This form is used to purchase stock by returning it with your payment in the enclosed business reply envelope. The deadline for ordering stock is 12:00 noon, California Time, June \_\_, 2002.

We invite you and other local community members to become charter shareholders of First PacTrust Bancorp, Inc. Through this offering you have the opportunity to buy stock directly First PacTrust Bancorp, Inc. without a commission or a fee.

If you have additional questions regarding the Conversion, please call us at (\_\_\_\_) \_\_\_\_-\_\_\_\_, Monday through Friday, 9:00 AM to 5:00 PM, or stop by our Stock Information Center located at 279 F Street in Chula Vista .

Sincerely,

Hans R. Ganz  
President and Chief Executive Officer

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May \_\_, 2002

## **To Members and Friends of Pacific Trust Bank**

Keefe, Bruyette & Woods, Inc., a member of the National Association of Securities Dealers, Inc. ("NASD"), is assisting Pacific Trust Bank in converting from the mutual to the stock form of organization which will then become a wholly-owned subsidiary of a new holding company, First PacTrust Bancorp, Inc. In connection with the conversion, First PacTrust Bancorp, Inc. is offering shares of its common stock in a subscription and community offering pursuant to a Plan of Conversion.

At the request of First PacTrust Bancorp, Inc., we are enclosing materials explaining this process and your options, including an opportunity to invest in shares of First PacTrust Bancorp, Inc. common stock being offered to customers of Pacific Trust Bank and various other persons until 12:00 Noon, California time, on June \_\_, 2002. Please read the enclosed offering materials carefully, including the Prospectus, for a complete description of the stock offering. First PacTrust Bancorp, Inc. has asked us to forward these documents to you in view of certain requirements of the securities laws in your state.

If you have any questions, please visit our Stock Information Center located at 279 F Street in Chula Vista, Monday through Friday, 9:00 AM to 5:00 PM, or feel free to call the Stock Information Center at (\_\_\_\_) \_\_\_\_-\_\_\_\_.

Very truly yours,

Keefe, Bruyette & Woods, Inc.

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## Facts About Conversion

The Board of Directors of Pacific Trust Bank unanimously adopted a Plan of Conversion to convert from the mutual to the stock form of organization (the "Conversion").

This brochure answers some of the most frequently asked questions about the Conversion and about your opportunity to invest in common shares of First PacTrust Bancorp, Inc. (the "Holding Company"), the newly-formed corporation that will become the holding company for Pacific Trust Bank following the Conversion.

Investment in the common stock of the Holding Company involves certain risks. For a discussion of these risks and other factors, including a complete description of the offering, **investors are urged to read the accompanying Prospectus**, especially the discussion under the heading "Risk Factors".

### **Why is Pacific Trust Bank converting to Stock form?**

The stock form of ownership is used by most business corporations, all banks, and an increasing number of savings institutions. The stock form of organization offers many competitive advantages, including growth opportunities and increased capital levels.

### **Will the Conversion affect any of my deposit accounts or loans?**

No. The Conversion will have no effect on the balance or terms of any savings account or loan, and your deposits will continue to be federally insured by the Federal Deposit Insurance Corporation ("FDIC") to the maximum legal limit. **Your savings account is not being converted into stock.**

### **Who is eligible to purchase common shares in the subscription offering?**

Certain past and present depositors of Pacific Trust Bank are eligible to purchase common stock in the subscription offering.

### **How many common shares are being offered and at what price?**

PAC Trust Bancorp, Inc. is offering up to \_\_\_\_\_ shares of common stock, subject to adjustment as described in the Prospectus, at a price of \$10.00 per share through the Prospectus.

### **How many shares may I buy?**

The minimum order is 25 shares. No person, together with associates of, and persons acting in concert with such person, may purchase more than 50,000 shares of common stock as further discussed in the Prospectus.

### **Will the common stock be insured?**

No. Like any other common stock, the Holding Company's common stock will not be insured.

### **Do members have to buy the common stock?**

No. However, the Conversion will allow depositors of Pacific Trust Bank an opportunity to buy common shares and become shareholders of the Holding Company for the local financial institution with which they do business.

### **How do I order the common stock?**

You must complete the enclosed Stock Order and Certification Form. Instructions for completing your Stock Order and Certification Form are contained in this packet. Your order must be received by 12:00 Noon, California Time on June \_\_, 2002.

### **How may I pay for my common stock?**

First, you may pay for common stock by check, money order or cash. Interest will be paid by Pacific Trust Bank on these funds at the statement savings rate from the day the funds are received until the completion or termination of the Conversion. Second, you may authorize us to withdraw funds from your deposit account or certificate of deposit at Pacific Trust Bank for the amount of funds you specify for payment. You will not have access to these funds from the day we receive your order until completion or termination of the Conversion. **There is no penalty for withdrawal from a certificate of deposit.**

### **Can I purchase stock using funds in my Pacific Trust Bank IRA account?**

Federal regulations do not permit the purchase of common stock in connection with the Conversion from your existing Pacific Trust Bank IRA account. To accommodate our depositors, we have made arrangements with an outside trustee to allow such purchases. Please call our Stock Information Center for additional information.

### **Will dividends be paid on the common stock?**

The Board of Directors of the Holding Company anticipates paying a cash dividend in the future. However, the timing and level of such dividends is currently undetermined.

### **How will the common stock be traded?**

The Holding Company's stock is expected to trade on the Nasdaq National Market under the ticker symbol "FPTB." However, no assurance can be given that an active and liquid market will develop.

### **Are executive officers and directors of Pacific Trust Bank planning to purchase stock?**

Yes! The executive officers and directors of Pacific Trust Bank plan to purchase, in the aggregate, \$\_\_\_\_,\_\_\_\_ worth of stock or approximately \_\_\_\_% of the common stock offered at the midpoint of the offering range.

### **Must I pay a commission?**

No. You will not be charged a commission or fee on the purchase of common stock in the Conversion.

### **Should I vote to approve the plan of conversion?**

Yes. Your "YES" vote is very important!

*PLEASE VOTE, SIGN AND RETURN ALL PROXY CARDS!*

**Why did I get several proxy cards?**

If you have more than one account, you could receive more than one proxy card, depending on the ownership structure of your accounts.

**How many votes do I have?**

Your proxy card(s) show(s) the number of votes you have. Every depositor is entitled to cast one vote for each \$100, and a proportionate fractional vote for an amount of less than \$100, on deposit as of the voting record date, up to 1,000 votes.

**May I vote in person at the special meeting?**

Yes, but we would still like you to sign and mail your proxy today. If you decide to revoke your proxy you may do so at any time before such proxy is exercised by executing and delivering a later dated proxy or by giving written notice of revocation in writing or by voting in person at the special meeting. Attendance at the special meeting will not, of itself, revoke a proxy.

**For Additional Information You May Visit or Call Our Stock Information Center Monday through Friday, 9:00 AM to 5:00 PM In Pacific Trust Bank's Office.**

**STOCK INFORMATION CENTER**

( ) -

Pacific Trust Bank  
279 F Street  
Chula Vista, California

**Questions  
and  
Answers**

**First PacTrust  
Bancorp,  
Inc.**

**Holding Company for  
Pacific Trust Bank**

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# PROXY GRAM

## ***PLEASE VOTE TODAY...***

We recently sent you a proxy statement and related materials regarding a proposal to convert Pacific Trust Bank from a *mutual savings institution* to a *stock corporation*.

**Your vote on the Plan of Conversion has not yet been received.**

**Voting for the Conversion does not obligate you to purchase stock and will not affect your accounts or FDIC Insurance.**

**Failure to Vote has the Same Effect as Voting Against the Conversion.**

The Board of Directors unanimously recommends a vote **"FOR"** the Conversion.

### **Your Vote Is Important To Us!**

Please sign the enclosed proxy card and return it in the postage-paid envelope provided **TODAY!** If you received more than one proxy card, please be sure to sign and return all cards you received.

Thank you,

Hans R. Ganz  
President and Chief Executive Officer  
Pacific Trust Bank  
Chula Vista, California

If you have already mailed your proxy card(s), please accept our thanks and disregard this notice.  
For further information call ( ) - .

THE SHARES OF COMMON STOCK BEING OFFERED ARE NOT SAVINGS ACCOUNTS OR DEPOSITS AND ARE NOT INSURED OR GUARANTEED BY FIRST PACIFIC BANK, INC., PACIFIC TRUST BANK, THE FEDERAL DEPOSIT INSURANCE CORPORATION, THE SAVINGS ASSOCIATION INSURANCE FUND OR ANY OTHER GOVERNMENT AGENCY. THIS IS NOT AN OFFER TO SELL OR A SOLICITATION OF AN OFFER TO BUY COMMON STOCK. THE OFFER IS MADE ONLY BY THE PROSPECTUS.

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## PROXY GRAM II

### ***PLEASE VOTE TODAY...***

We recently sent you a proxy statement and related materials regarding a proposal to convert Pacific Trust Bank from a *mutual savings institution* to a *stock corporation*.

**Your vote on the Plan of Conversion has not yet been received.**

**Voting for the Conversion does not obligate you to purchase stock and will not affect your accounts or FDIC Insurance.**

**Failure to Vote has the Same Effect as Voting Against the Conversion.**

The Board of Directors unanimously recommends a vote **"FOR"** the Conversion.

#### **Our Reasons for the Corporate Change**

##### As a Mutual Institution:

- There is no authority to issue capital stock and thus no access to this market source of equity capital.
- Earnings from year to year are the only source of generating capital.

##### As a Stock Corporation we will be able to:

- Be organized in the form used by commercial banks and most savings institutions.
- Have the flexibility to raise new equity capital at times deemed advantageous by the Board.
- Able to support future growth and expanded operations, including increased lending.
- Better able to address the needs of the communities we serve.
- More easily make acquisitions and expand into new businesses.
- Establish stock compensation plans to provide an equity interest in the company and greater incentive to improve its performance.

#### **Your Vote Is Important To Us!**

Please sign the enclosed proxy card and return it in the postage-paid envelope provided **TODAY!** If you received more than one proxy card, please be sure to sign and return all cards you received.

Thank you,

Hans R. Ganz  
President and Chief Executive Officer  
Pacific Trust Bank

If you have already mailed your proxy card(s), please accept our thanks and disregard this notice.

For further information call ( ) - .

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{logo} Pacific Trust Bank

June \_\_, 2002

Dear Valued Pacific Trust Bank Member:

We recently forwarded you a proxy statement and related materials regarding a proposal to reorganize Pacific Trust Bank from a mutual holding company to a standard stock holding company form of organization. This reorganization and conversion will allow us to operate in essentially the same manner as we currently operate, but provides us with the flexibility to add capital, continue to grow and expand the bank, add new products and services, and increase our lending capability.

As of today, your vote on our Plan of Conversion has not yet been received. **Your Board of Directors unanimously recommends a vote "FOR" the Plan of Conversion.** If you mailed your proxy, please accept our thanks and disregard this request.

We would sincerely appreciate you signing the enclosed proxy card and returning it promptly in the enclosed postage-paid envelope or dropping it off at your Pacific Trust Bank branch. Our meeting on June \_\_<sup>th</sup> is fast approaching and we'd like to receive your vote as soon as possible.

Voting FOR the Reorganization does not affect the terms or insurance on your accounts. For further information call our Information Center at (\_\_\_\_) \_\_\_\_-\_\_\_\_.

Best regards and thank you,

**Hans R. Ganz**

President and Chief Executive Officer

## CHANGE IN CONTROL SEVERANCE AGREEMENT

THIS CHANGE IN CONTROL SEVERANCE AGREEMENT ("Agreement") is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2002, by and between Pacific Trust Bank (hereinafter referred to as the "Bank") and \_\_\_\_\_ (the "Employee").

WHEREAS, the Employee is currently serving as \_\_\_\_\_ of the Bank; and

WHEREAS, the Bank has adopted a plan of conversion whereby the Bank will convert to capital stock form as the subsidiary of a holding company (the "Company"), subject to the approval of the Bank's members and the Office of Thrift Supervision (the "Conversion"); and

WHEREAS, the Board of Directors of the Bank believes it is in the best interests of the Bank to enter into this Agreement with the Employee in order to assure continuity of management of the Bank and to reinforce and encourage the continued attention and dedication of the Employee; and

WHEREAS, the Board of Directors of the Bank has approved and authorized the execution of this Agreement with the Employee to take effect as stated in Section 2 hereof;

NOW, THEREFORE, in consideration of the foregoing and of the respective covenants and agreements of the parties herein, it is AGREED as follows:

### 1. Definitions.

(a) The term "Change in Control" means (1) an acquisition of securities of the Company or the Bank that is determined by the Board of Directors to constitute an acquisition of control of the Company or the Bank within the meaning of the Change in Bank Control Act, 12 U.S.C. § 1817(j) and the Savings and Loan Holding Company Act, 12 U.S.C. § 1462a, and applicable regulations thereunder; (2) an event that would be required to be reported in response to Item 1 of the current report on Form 8-K, as in effect on the Effective Date, pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (the "Exchange Act"); (3) any person (as the term is used in Sections 13(d) and 14(d) of the Exchange Act) is or becomes the beneficial owner (as defined in Rule 13d-3 under the Exchange Act) directly or indirectly of securities of the Company or the Bank representing 20% or more of the combined voting power of the Company's or the Bank's outstanding securities; (4) individuals who are members of the Board of Directors on the Effective Date (the "Incumbent Board") cease for any reason to constitute at least a majority thereof, provided that any person becoming a director subsequent to the Effective Date whose election was approved by a vote of at least three-quarters of the directors comprising the Incumbent Board, or whose nomination for election by the Company's stockholders was approved by a nominating committee serving under an Incumbent Board, shall be considered a member of the Incumbent Board; or (5) approval by the Company's stockholders of a plan of reorganization, merger or consolidation of the Company, sale of all or substantially all of the assets of the Company, a similar transaction in which the Company is not the resulting entity; provided that the term "change in control" shall not include an acquisition of securities by an employee benefit plan of the Bank or the Company. In the application of regulations under the Change in Bank Control Act or the Savings and Loan Holding Company Act,

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determinations to be made by the applicable federal banking regulator shall be made by the Board of Directors.

(b) The term "Commencement Date" means the effective date of the Conversion of the Bank from mutual to stock form.

(c) The term "Date of Termination" means the date upon which the Employee ceases to serve as an employee of the Bank.

(d) The terms "Termination for Cause" and "Terminated For Cause" mean termination of the employment of the Employee because of the Employee's personal dishonesty, incompetence, willful misconduct, breach of a fiduciary duty involving personal profit, intentional failure to perform stated duties, willful violation of any law, rule, or regulation (other than traffic violations or similar offenses) or final cease-and-desist order, or material breach of any provision of this Agreement. The Employee shall not be deemed to have been Terminated for Cause unless and until there shall have been delivered to the Employee a copy of a resolution, duly adopted by the affirmative vote of not less than a majority of the entire membership of the Board of Directors of the Bank at a meeting of the Board called and held for such purpose (after reasonable notice to the Employee and an opportunity for the Employee, together with the Employee's counsel, to be heard before the Board), stating that in the good faith opinion of the

Board the Employee has engaged in conduct described in the preceding sentence and specifying the particulars thereof in detail.

2. Term. The term of this Agreement shall be a period of three years beginning on the Commencement Date, subject to earlier termination as provided herein. Beginning on the first anniversary of the Commencement Date, and on each anniversary thereafter, the term of this Agreement shall be extended for a period of one year in addition to the then-remaining term, *provided* that, prior to such anniversary, the Board of Directors explicitly reviews and approves the extension. Reference herein to the term of this Agreement shall refer to both such initial term and such extended terms.

3. Severance Benefits; Regulatory Provisions.

(a) Severance Benefits in Connection With a Change in Control. In the event of a Change in Control which occurs during the term of this Agreement, the Bank shall, subject to Section 4 of this Agreement, (1) pay to the Employee in a lump sum in cash within 25 business days after the Date of Termination an amount equal to **[299% for Hans Ganz and 200% for Jim Sheehy and Melanie Stewart]** of Employee's "base amount" as defined in Section 280G of the Internal Revenue Code of 1986, as amended (the "Code"); and (2) provide to the Employee during the remaining term of this Agreement following the Date of Termination, such health insurance benefits as the Bank maintained for the Employee at the Date of Termination on terms as favorable to the Employee as applied at the Date of Termination.

(b) Temporary Suspension or Prohibition. If the Employee is suspended and/or temporarily prohibited from participating in the conduct of the Bank's affairs by a notice served under Section 8(e)(3) or (g)(1) of the FDIA, 12 U.S.C. § 1818(e)(3) and (g)(1), the Bank's obligations under this Agreement shall be suspended as of the date of service, unless stayed by

appropriate proceedings. If the charges in the notice are dismissed, the Bank may in its discretion (i) pay the Employee all or part of the compensation withheld while its obligations under this Agreement were suspended and (ii) reinstate in whole or in part any of its obligations which were suspended.

(c) Permanent Suspension or Prohibition. If the Employee is removed and/or permanently prohibited from participating in the conduct of the Bank's affairs by an order issued under Section 8(e)(4) or (g)(1) of the FDIA, 12 U.S.C. § 1818(e)(4) and (g)(1), all obligations of the Bank under this Agreement shall terminate as of the effective date of the order, but vested rights of the contracting parties shall not be affected.

(d) Default of the Bank. If the Bank is in default (as defined in Section 3(x)(1) of the FDIA), all obligations under this Agreement shall terminate as of the date of default, but this provision shall not affect any vested rights of the contracting parties.

(e) Termination by Regulators. All obligations of the Bank under this Agreement shall be terminated, except to the extent determined that continuation of this Agreement is necessary for the continued operation of the Bank: (1) by the Director of the Office of Thrift Supervision (the "Director") or his or her designee, at the time the Federal Deposit Insurance Corporation enters into an agreement to provide assistance to or on behalf of the Bank under the authority contained in Section 13(c) of the FDIA; or (2) by the Director or his or her designee, at the time the Director or his or her designee approves a supervisory merger to resolve problems related to operation of the Bank or when the Bank is determined by the Director to be in an unsafe or unsound condition. Any rights of the parties that have already vested, however, shall not be affected by any such action.

4. Certain Reduction of Payments by the Bank.

(a) Notwithstanding any other provision of this Agreement, if payments under this Agreement, together with any other payments received or to be received by the Employee in connection with a Change in Control would cause any amount to be nondeductible for federal income tax purposes pursuant to Section 280G of the Code, then benefits under this Agreement shall be reduced (not less than zero) to the extent necessary so as to maximize payments to the Employee without causing any amount to become nondeductible. The Employee shall determine the allocation of such reduction among payments to the Employee.

(b) Any payments made to the Employee pursuant to this Agreement, or otherwise, are subject to and conditioned upon their compliance with 12 U.S.C. § 1828(k) and any regulations promulgated thereunder.

5. No Mitigation. The Employee shall not be required to mitigate the amount of any salary or other payment or benefit provided for in this Agreement by seeking other employment or otherwise, nor shall the amount of any payment or benefit provided for in this Agreement be reduced by any compensation earned by the Employee as the result of employment by another employer, by retirement benefits after the Date of Termination or otherwise. This Agreement shall not be construed as providing the Employee any right to be retained in the employ of the Bank or any affiliated of the Bank.

6. Attorneys Fees. If the Employee is purportedly Terminated for Cause and the Bank denies payments and/or benefits under Section 3(a) of this Agreement on the basis that the Employee experienced Termination for Cause, but it is determined by a court of competent jurisdiction or by an arbitrator pursuant to Section 13 that cause as contemplated by Section 1(e) of this Agreement did not exist for termination of the Employee's employment, or if in any event it is determined by any such court or arbitrator that the Bank has failed to make timely payment of any amounts or provision of any benefits owed to the Employee under this Agreement, the Employee shall be entitled to reimbursement for all reasonable costs, including attorneys' fees, incurred in challenging such termination of employment or collecting such amounts or benefits. Such reimbursement shall be in addition to all rights to which the Employee is otherwise entitled under this Agreement.

7. No Assignments.

(a) This Agreement is personal to each of the parties hereto, and no party may assign or delegate any of its rights or obligations hereunder without first obtaining the written consent of the other party; provided, however, that the Bank shall require any successor or assign (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business and/or assets of the Bank, by an assumption agreement in form and substance satisfactory to the Employee, to expressly assume and agree to perform this Agreement in the same manner and to the same extent that the Bank would be required to perform it if no such succession or assignment had taken place. Failure of the Bank to obtain such an assumption agreement prior to the effectiveness of any such succession or assignment shall be a breach of this Agreement and shall entitle the Employee to compensation from the Bank in the same amount and on the same terms as the compensation pursuant to Section 3(a) hereof. For purposes of implementing the provisions of this Section 7(a), the date on which any such succession becomes effective shall be deemed the Date of Termination.

(b) This Agreement and all rights of the Employee hereunder shall inure to the benefit of and be enforceable by the Employee's personal and legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees. If the Employee should die while any amounts would still be payable to the Employee hereunder if the Employee had continued to live, all such amounts, unless otherwise provided herein, shall be paid in accordance with the terms of this Agreement to the Employee's devisee, legatee or other designee or if there is no such designee, to the Employee's estate.

8. Notice. For the purposes of this Agreement, notices and all other communications provided for in the Agreement shall be in writing and shall be deemed to have been duly given when personally delivered or sent by certified mail, return receipt requested, postage prepaid, to the Bank at its home office, to the attention of the Board of Directors with a copy to the Secretary, or, if to the Employee, to such home or other address as the Employee has most recently provided in writing to the Bank.

9. Amendments. No amendments or additions to this Agreement shall be binding unless in writing and signed by both parties, except as herein otherwise provided.

10. Headings. The headings used in this Agreement are included solely for convenience and shall not affect, or be used in connection with, the interpretation of this Agreement.

11. Severability. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof.

12. Governing Law. This Agreement shall be governed by the laws of the United States to the extent applicable and otherwise by the laws of the State of California.

13. Arbitration. Any dispute or controversy arising under or in connection with this Agreement shall be settled exclusively by arbitration in accordance with the rules of the American Arbitration Association then in effect. Judgment may be entered on the arbitrator's award in any court having jurisdiction.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.

Attest: **PACIFIC TRUST BANK**

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
By:  
Its:

Employee

\_\_\_\_\_

End.  
\_\_\_\_\_

**PACIFIC TRUST BANK**  
Chula Vista, California

**PLAN OF CONVERSION**  
From Mutual to Stock Form of Organization

**I. GENERAL**

On March 1, 2002, the Board of Directors of Pacific Trust Bank (the "Bank") adopted a Plan of Conversion whereby the Bank would convert from a mutual savings institution to a stock savings institution. The Plan includes, as part of the Conversion, the concurrent formation of the Holding Company, to be named in the future. The Plan provides that non-transferable subscription rights to purchase Holding Company Conversion Stock will be offered first to Eligible Account Holders of record as of the Eligibility Record Date, then to the Holding Company's and the Bank's Tax-Qualified Employee Plans, then to Supplemental Eligible Account Holders of record as of the Supplemental Eligibility Record Date, then to Other Members, and then to directors, officers and employees. Concurrently with, at any time during, or promptly after the Subscription Offering, and on a lowest priority basis, an opportunity to subscribe may also be offered to the general public in a Direct Community Offering or a Public Offering. The price of the Holding Company Conversion Stock will be based upon an independent appraisal of the Bank and will reflect its estimated pro forma market value, as converted. It is the desire of the Board of Directors of the Bank to attract new capital to the Bank in order to increase its capital, support future savings growth and increase the amount of funds available for residential and other lending. The Converted Bank is also expected to benefit from its management and other personnel having a stock ownership in its business, since stock ownership is viewed as an effective performance incentive and a means of attracting, retaining and compensating management and other personnel. No change will be made in the Board of Directors or management as a result of the Conversion.

**II. DEFINITIONS**

Acting in Concert: The term "acting in concert" shall have the same meaning given it in §.2(c) of the Rules and Regulations of the OTS.

Actual Subscription Price: The price per share, determined as provided in Section V of the Plan, at which Holding Company Conversion Stock will be sold in the Subscription Offering.

Affiliate: An "affiliate" of, or a Person "affiliated" with, a specified Person, is a Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by or is under common control with, the Person specified.

Associate: The term "associate," when used to indicate a relationship with any Person, means (i) any corporation or organization (other than the Holding Company, the Bank or a majority-owned subsidiary of the Holding Company) of which such Person is an officer or partner or is, directly or indirectly, the beneficial owner of ten percent or more of any class of equity securities, (ii) any trust or other estate in which such Person has a substantial beneficial interest or as to which such Person serves as trustee or in a similar fiduciary capacity, and (iii) any relative or spouse of such Person, or any relative of such spouse, who has the same home as such Person or who is a director or officer of the Holding Company or the Bank or any subsidiary of the Holding Company; provided, however, that any Tax-Qualified or Non-Tax-Qualified Employee Plan shall not be deemed to be an associate of any director or officer of the Holding Company or the Bank, to the extent provided in Section V hereof.

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Bank: Pacific Trust Bank or such other name as the institution may adopt.

Conversion: Change of the Bank's mutual charter and bylaws to federal stock charter and bylaws; sale by the Holding Company of Holding Company Conversion Stock; and issuance and sale by the Converted Bank of its common stock to the Holding Company, all as provided for in the Plan.

Converted Bank: The federally chartered stock savings institution resulting from the Conversion of the Bank in accordance with the Plan.

**Deposit Account:** Any withdrawable or repurchasable account or deposit in the Bank including Savings Accounts and demand accounts.

**Direct Community Offering:** The offering to the general public of any unsubscribed shares which may be effected as provided in Section V hereof.

**Eligibility Record Date:** The close of business on December 31, 1999.

**Eligible Account Holder:** Any Person holding a Qualifying Deposit in the Bank on the Eligibility Record Date.

**Exchange Act:** The Securities Exchange Act of 1934, as amended.

**Holding Company:** A corporation which upon completion of the Conversion will own all of the outstanding common stock of the Converted Bank, and the name of which will be selected in the future.

**Holding Company Conversion Stock:** Shares of common stock, par value \$.01 per share, to be issued and sold by the Holding Company as a part of the Conversion; provided, however, that for purposes of calculating Subscription Rights and maximum purchase limitations under the Plan, references to the number of shares of Holding Company Conversion Stock shall refer to the number of shares offered in the Subscription Offering.

**Market Maker:** A dealer (*i.e.*, any Person who engages directly or indirectly as agent, broker or principal in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another Person) who, with respect to a particular security, (i) regularly publishes bona fide, competitive bid and offer quotations in a recognized inter-dealer quotation system; or (ii) furnishes bona fide competitive bid and offer quotations on request; and (iii) is ready, willing, and able to effect transactions in reasonable quantities at his quoted prices with other brokers or dealers.

**Maximum Subscription Price:** The price per share of Holding Company Conversion Stock to be paid initially by subscribers in the Subscription Offering.

**Member:** Any Person or entity that qualifies as a member of the Bank pursuant to its charter and bylaws.

**Non-Tax-Qualified Employee Plan:** Any defined benefit plan or defined contribution plan of the Bank or the Holding Company, such as an employee stock ownership plan, stock bonus plan, profit-sharing plan or other plan, which with its related trust does not meet the requirements to be "qualified" under Section 401 of the Internal Revenue Code.

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**OTS:** Office of Thrift Supervision, Department of the Treasury, and its successors.

**Officer:** An executive officer of the Holding Company or the Bank, including the Chairman of the Board, President, Executive Vice Presidents, Senior Vice Presidents in charge of principal business functions, Secretary and Treasurer.

**Order Forms:** Forms to be used in the Subscription Offering to exercise Subscription Rights.

**Other Members:** Members of the Bank, other than Eligible Account Holders, Tax-Qualified Employee Plans or Supplemental Eligible Account Holders, as of the Voting Record Date.

**Person:** An individual, a corporation, a partnership, an association, a joint-stock company, a trust, any unincorporated organization, or a government or political subdivision thereof.

**Plan:** This Plan of Conversion of the Bank, including any amendment approved as provided in this Plan.

**Public Offering:** The offering for sale through the Underwriters to selected members of the general public of any shares of Holding Company Conversion Stock not subscribed for in the Subscription Offering or the Direct Community Offering, if any.

**Public Offering Price:** The price per share at which any unsubscribed shares of Holding Company Conversion Stock are initially offered for sale in the Public Offering.

**Qualifying Deposit:** The aggregate balance of \$50 or more of each Deposit Account of an Eligible Account Holder as of the Eligibility Record Date or of a Supplemental Eligible Account Holder as of the Supplemental Eligibility Record Date.

SAIF: Savings Association Insurance Fund.

Savings Account: The term "Savings Account" means any withdrawable account in the Bank except a demand account.

SEC: Securities and Exchange Commission.

Special Meeting: The Special Meeting of Members called for the purpose of considering and voting upon the Plan of Conversion.

Subscription Offering: The offering of shares of Holding Company Conversion Stock for subscription and purchase pursuant to Section V of the Plan.

Subscription Rights: Non-transferable, non-negotiable, personal rights of the Bank's Eligible Account Holders, Tax-Qualified Employee Plans, Supplemental Eligible Account Holders, Other Members, and directors, Officers and employees to subscribe for shares of Holding Company Conversion Stock in the Subscription Offering.

Supplemental Eligibility Record Date: The last day of the calendar quarter preceding approval of the Plan by the OTS.

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Supplemental Eligible Account Holder: Any person holding a Qualifying Deposit in the Bank (other than an officer or director and their associates) on the Supplemental Eligibility Record Date.

Tax-Qualified Employee Plans: Any defined benefit plan or defined contribution plan of the Bank or the Holding Company, such as an employee stock ownership plan, stock bonus plan, profit-sharing plan or other plan, which with its related trust meets the requirements to be "qualified" under Section 401 of the Internal Revenue Code.

Underwriters: The investment banking firm or firms agreeing to offer and sell Holding Company Conversion Stock in the Public Offering.

Voting Record Date: The date set by the Board of Directors in accordance with federal regulations for determining Members eligible to vote at the Special Meeting.

### III. STEPS PRIOR TO SUBMISSION OF PLAN OF CONVERSION TO THE MEMBERS FOR APPROVAL

Prior to submission of the Plan of Conversion to its Members for approval, the Bank must receive from the OTS approval of the Application for Approval of Conversion to convert to the federal stock form of organization. The following steps must be taken prior to such regulatory approval:

- A. The Board of Directors shall adopt the Plan by not less than a two-thirds vote.
- B. The Bank shall notify its Members of the adoption of the Plan by publishing a statement in a newspaper having a general circulation in each community in which the Bank maintains an office.
- C. Copies of the Plan adopted by the Board of Directors shall be made available for inspection at each office of the Bank.
- D. The Bank will promptly cause an Application for Approval of Conversion on Form AC to be prepared and filed with the OTS, an Application on Form H-(e)1 (or other applicable form) to be prepared and filed with the OTS and a Registration Statement on Form S-1 to be prepared and filed with the SEC.
- E. Upon receipt of notice from the OTS to do so, the Bank shall notify its Members that it has filed the Application for Approval of Conversion by posting notice in each of its offices and by publishing notice in a newspaper having general circulation in each community in which the Bank maintains an office.

#### IV. CONVERSION PROCEDURE

Following approval of the application by the OTS, the Plan will be submitted to a vote of the Members at the Special Meeting. If the Plan is approved by Members holding a majority of the total number of votes entitled to be cast at the Special Meeting, the Bank will take all other necessary steps pursuant to applicable laws and regulations to convert to a federal stock savings institution as part of a concurrent holding company formation pursuant to the terms of the Plan.

The Holding Company Conversion Stock will be offered for sale in the Subscription Offering at the Maximum Subscription Price to Eligible Account Holders, Tax-Qualified Employee Plans, Supplemental Eligible Account Holders, Other Members and directors, Officers and employees of the Bank, prior to or within 45 days after the date of the Special Meeting. The Bank may, either concurrently with, at any time during, or promptly after the Subscription Offering, also offer the Holding Company Conversion Stock to and accept subscriptions from other Persons in a Direct Community Offering or a Public Offering; provided that the Bank's Eligible Account Holders, Tax-Qualified Employee Plans, Supplemental Eligible Account Holders, Other Members and directors, Officers and employees shall have the priority rights to subscribe for Holding Company Conversion Stock set forth in Section V of this Plan. However, the Holding Company and the Bank may delay commencing the Subscription Offering beyond such 45-day period in the event there exist unforeseen material adverse market or financial conditions. If the Subscription Offering commences prior to the Special Meeting, subscriptions will be accepted subject to the approval of the Plan at the Special Meeting.

The period for the Subscription Offering and Direct Community Offering will be not less than 20 days nor more than 45 days unless extended by the Bank. Upon completion of the Subscription Offering and the Direct Community Offering, if any, any unsubscribed shares of Holding Company Conversion Stock may be sold through the Underwriters to selected members of the general public in the Public Offering. If for any reason all of the shares are not sold in the Subscription Offering, the Direct Community Offering, if any, and the Public Offering, if any, the Holding Company and the Bank will use their best efforts to obtain other purchasers, subject to OTS approval. Completion of the sale of all shares of Holding Company Conversion Stock not sold in the Subscription Offering is required within 45 days after termination of the Subscription Offering, subject to extension of the 45-day period by the Holding Company and the Bank with the approval of the OTS. The Holding Company and the Bank may jointly seek one or more extensions of the 45-day period if necessary to complete the sale of all shares of Holding Company Conversion Stock. In connection with these extensions, subscribers and other purchasers will be permitted to increase, decrease or rescind their subscriptions or purchase orders to the extent required by the OTS in approving the extensions. Completion of the sale of all shares of Holding Company Conversion Stock is required within 24 months after the date of the Special Meeting.

#### V. STOCK OFFERING

##### A. Total Number of Shares and Purchase Price of Conversion Stock

The total number of shares of Holding Company Conversion Stock to be issued in the Conversion will be determined jointly by the Boards of Directors of the Holding Company and the Bank prior to the commencement of the Subscription Offering, subject to adjustment if necessitated by market or financial conditions prior to consummation of the Conversion. The total number of shares of Holding Company Conversion Stock shall also be subject to increase in connection with any oversubscriptions in the Subscription Offering or Direct Community Offering.

The aggregate price for which all shares of Holding Company Conversion Stock will be sold will be based on an independent appraisal of the estimated total pro forma market value of the Holding Company and the Converted Bank. The appraisal shall be performed in accordance with OTS guidelines and will be updated as appropriate under or required by applicable regulations.

The appraisal will be made by an independent investment banking or financial consulting firm experienced in the area

of thrift institution appraisals. The appraisal will include, among other things, an analysis of the historical and pro forma operating results and net worth of the Converted Bank and a comparison of the Holding Company, the Converted Bank and the Holding Company Conversion Stock with comparable thrift institutions and holding companies and their respective outstanding capital stocks.

Based upon the independent appraisal, the Boards of Directors of the Holding Company and the Bank will jointly fix the Maximum Subscription Price.

If, following completion of the Subscription Offering and Direct Community Offering, if any, a Public Offering is effected, the Actual Subscription Price for each share of Holding Company Conversion Stock will be the same as the Public Offering Price at which unsubscribed shares of Holding Company Conversion Stock are initially offered for sale by the Underwriters in the Public Offering.

If, upon completion of the Subscription Offering, Direct Community Offering, if any, and Public Offering, if any, all of the Holding Company Conversion Stock is subscribed for or only a limited number of shares remain unsubscribed for, the Actual Subscription Price for each share of Holding Company Conversion Stock will be determined by dividing the estimated appraised aggregate pro forma market value of the Holding Company and the Converted Bank, based on the independent appraisal as updated upon completion of the Subscription Offering or other sale of all of the Holding Company Conversion Stock, by the total number of shares of Holding Company Conversion Stock to be issued by the Holding Company upon Conversion. The appraisal will then be expressed in terms of a specific aggregate dollar amount rather than as a range.

#### B. Subscription Rights

Non-transferable Subscription Rights to purchase Holding Company Conversion Stock will be issued without payment therefor to Eligible Account Holders, Tax-Qualified Employee Plans, Supplemental Eligible Account Holders, Other Members and directors, Officers and employees of the Bank as set forth below.

##### 1. Preference Category No. 1: Eligible Account Holders

Each Eligible Account Holder shall receive non-transferable Subscription Rights to subscribe for shares of Holding Company Conversion Stock in an amount equal to the greater of \$500,000, or one-tenth of one percent (.10%) of the total offering of shares, or 15 times the product (rounded down to the next whole number) obtained by multiplying the total number of shares of Holding Company Conversion Stock to be issued by a fraction of which the numerator is the amount of the Qualifying Deposit of the Eligible Account Holder and the denominator is the total amount of Qualifying Deposits of all

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Eligible Account Holders in the converting Bank in each case on the Eligibility Record Date.

If sufficient shares are not available, shares shall be allocated first to permit each subscribing Eligible Account Holder to purchase to the extent possible 100 shares, and thereafter among each subscribing Eligible Account Holder pro rata in the same proportion that his Qualifying Deposit bears to the total Qualifying Deposits of all subscribing Eligible Account Holders whose subscriptions remain unsatisfied.

Non-transferable Subscription Rights to purchase Holding Company Conversion Stock received by directors and Officers of the Bank and their Associates, based on their increased deposits in the Bank in the one-year period preceding the Eligibility Record Date, shall be subordinated to all other subscriptions involving the exercise of non-transferable Subscription Rights of Eligible Account Holders.

##### 2. Preference Category No. 2: Tax-Qualified Employee Plans

Each Tax-Qualified Employee Plan shall be entitled to receive non-transferable Subscription Rights to purchase up to 10% of the shares of Holding Company Conversion Stock, provided that singly or in the aggregate such plans (other than that portion of such plans which is self-directed) shall not purchase more than 10% of the shares of the Holding Company Conversion Stock. Subscription Rights received pursuant to this Category shall be subordinated to all rights received by Eligible Account Holders to purchase shares pursuant to Category No. 1; provided, however, that notwithstanding any other provision of this Plan to the contrary, the Tax-Qualified Employee Plans shall have a first priority Subscription Right to the extent that the total number of shares of Holding Company Conversion Stock sold in the Conversion exceeds the maximum of the appraisal range as set forth in the subscription prospectus.

##### 3. Preference Category No. 3: Supplemental Eligible Account Holders

Each Supplemental Eligible Account Holder shall receive non-transferable Subscription Rights to subscribe for

shares of Holding Company Conversion Stock in an amount equal to the greater of \$500,000, or one-tenth of one percent (.10%) of the total offering of Holding Company Conversion Stock, or 15 times the product (rounded down to the next whole number) obtained by multiplying the total number of shares of Holding Company Conversion Stock to be issued by a fraction of which the numerator is the amount of the Qualifying Deposit of the Supplemental Eligible Account Holder and the denominator is the total amount of Qualifying Deposits of all Supplemental Eligible Account Holders in the converting Bank in each case on the Supplemental Eligibility Record Date.

Subscription Rights received pursuant to this Category shall be subordinated to all Subscription Rights received by Eligible Account Holders and Tax-Qualified Employee Plans pursuant to Category Nos. 1 and 2 above.

Any non-transferable Subscription Rights to purchase shares received by an Eligible Account Holder in accordance with Category No. 1 shall reduce to the extent thereof the Subscription Rights to be distributed to such person pursuant to this Category.

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In the event of an oversubscription for shares under this Category, the shares available shall be allocated first to permit each subscribing Supplemental Eligible Account Holder, to the extent possible, to purchase a number of shares sufficient to make his total allocation (including the number of shares, if any, allocated in accordance with Category No. 1) equal to 100 shares, and thereafter among each subscribing Supplemental Eligible Account Holder pro rata in the same proportion that his Qualifying Deposit bears to the total Qualifying Deposits of all subscribing Supplemental Eligible Account Holders whose subscriptions remain unsatisfied.

4. Preference Category No. 4: Other Members

Each Other Member shall receive non-transferable Subscription Rights to subscribe for shares of Holding Company Conversion Stock remaining after satisfying the subscriptions provided for under Category Nos. 1 through 3 above, subject to the following conditions:

a. Each Other Member shall be entitled to subscribe for an amount of shares equal to the greater of \$500,000, or one-tenth of one percent (.10%) of the total offering of Holding Company Conversion Stock, to the extent that Holding Company Conversion Stock is available.

b. In the event of an oversubscription for shares under this Category, the shares available shall be allocated among the subscribing Other Members pro rata in the same proportion that his number of votes on the Voting Record Date bears to the total number of votes on the Voting Record Date of all subscribing Other Members on such date. Such number of votes shall be determined based on the Bank's mutual charter and bylaws in effect on the date of approval by members of this Plan.

5. Preference Category No. 5: Directors, Officers and Employees

Each director, Officer and employee of the Bank as of the date of the commencement of the Subscription Offering shall be entitled to receive non-transferable Subscription Rights to purchase shares of the Holding Company Conversion Stock to the extent that shares are available after satisfying subscriptions under Category Nos. 1 through 4 above. The shares which may be purchased under this Category are subject to the following conditions:

a. The total number of shares which may be purchased under this Category may not exceed 19% of the number of shares of Holding Company Conversion Stock.

b. The maximum amount of shares which may be purchased under this Category by any Person is \$500,000 of Holding Company Conversion Stock. In the event of an oversubscription for shares under this Category, the shares available shall be allocated pro rata among all subscribers in this Category.

C. Direct Community Offering and Public Offering

1. Any shares of Holding Company Conversion Stock not subscribed for in the Subscription Offering may be offered for sale in a Direct Community Offering. This may involve an offering of all unsubscribed shares directly to the general public with a preference to

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those natural persons residing in the counties in which the Bank has an office. The purchase price per share to the general public in a Direct Community Offering shall be the same as the Actual Subscription Price. The Holding Company and the Bank may use an investment banking firm or firms on a best efforts basis to sell the unsubscribed shares in the Subscription and Direct Community Offering. The Holding Company and the Bank may pay a commission or other fee to such investment banking firm or firms as to the shares sold by such firm or firms in the Subscription and Direct Community Offering and may also reimburse such firm or firms for expenses incurred in connection with the sale. The Holding Company Conversion Stock will be offered and sold in the Direct Community Offering, if any, in accordance with OTS regulations, so as to achieve the widest distribution of the Holding Company Conversion Stock. No person, by himself or herself, or with an Associate or group of Persons acting in concert, may subscribe for or purchase more than \$500,000 of Holding Company Conversion Stock in the Direct Community Offering, if any. Further, the Bank may limit total subscriptions under this Section V.C.1 so as to assure that the number of shares available for the Public Offering may be up to a specified percentage of the number of shares of Holding Company Conversion Stock. Finally, the Bank may reserve shares offered in the Direct Community Offering for sales to institutional investors.

In the event of an oversubscription for shares in the Direct Community Offering, shares may be allocated (to the extent shares remain available) first to cover orders of natural persons residing in the counties in which the Bank has an office, then to cover the orders of any other person subscribing for shares in the Direct Community Offering so that each such person may receive 1,000 shares, and thereafter, on a pro rata basis to such persons based on the amount of their respective subscriptions.

The Bank and the Holding Company, in their sole discretion, may reject subscriptions, in whole or in part, received from any Person under this Section V.C. Further, the Bank and the Holding Company may, at their sole discretion, elect to forego a Direct Community Offering and instead effect a Public Offering as described below.

2. Any shares of Holding Company Conversion Stock not sold in the Subscription Offering or in the Direct Community Offering, if any, may then be sold through the Underwriters to selected members of the general public in the Public Offering. It is expected that the Public Offering will commence as soon as practicable after termination of the Subscription Offering and the Direct Community Offering, if any. The Bank and the Holding Company, in their sole discretion, may reject any subscription, in whole or in part, received in the Public Offering. The Public Offering shall be completed within 45 days after the termination of the Subscription Offering, unless such period is extended as provided in Section IV hereof. No person, by himself or herself, or with an Associate or group of Persons acting in concert, may purchase more than \$500,000 of Holding Company Conversion Stock in the Public Offering, if any.

3. If for any reason any shares remain unsold after the Subscription Offering, the Direct Community Offering, if any, and the Public Offering, if any, the Boards of Directors of the Holding Company and the Bank will seek to make other arrangements for the sale of the remaining shares of Holding Company Conversion Stock. Such other arrangements will be subject to the approval of the OTS and to compliance with applicable securities laws.

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#### D. Additional Limitations Upon Purchases of Shares of Holding Company Conversion Stock

The following additional limitations shall be imposed on all purchases of Holding Company Conversion Stock in the Conversion:

1. No Person, by himself or herself, or with an Associate or group of Persons acting in concert, may subscribe for or purchase in the Conversion a number of shares of Holding Company Conversion Stock which exceeds an amount of shares equal to \$500,000. For purposes of this paragraph, an Associate of a Person does not include a Tax-Qualified or Non-Tax Qualified Employee Plan in which the Person has a substantial beneficial interest or serves as a trustee or in a similar fiduciary capacity. Moreover, for purposes of this paragraph, shares held by one or more Tax-Qualified or Non-Tax Qualified Employee Plans attributed to a Person shall not be aggregated with shares purchased directly by or otherwise attributable to that Person.

2. Directors and Officers and their Associates may not purchase in all categories in the Conversion an aggregate of more than 29% of the Holding Company Conversion Stock. For purposes of this paragraph, an Associate of a Person does not include any Tax-Qualified Employee Plan. Moreover, any shares attributable to the Officers and directors and their Associates, but held by one or more Tax-Qualified Employee Plans shall not be included in calculating the number of shares which may be purchased under the limitation in this paragraph.

3. The minimum number of shares of Holding Company Conversion Stock that may be purchased by any

Person in the Conversion is 25 shares, provided sufficient shares are available.

4. The Boards of Directors of the Holding Company and the Bank may, in their sole discretion, increase the maximum purchase limitation referred to in paragraph 1 of this subpart D, up to 9.99%, provided that orders for shares exceeding 5% of the Holding Company Conversion Stock offered in the Conversion shall not exceed, in the aggregate, 10% of the Holding Company Conversion Stock offered in the Conversion. Requests to purchase additional shares of Holding Company Conversion Stock under this provision will be allocated by the Boards of Directors on a pro rata basis giving priority in accordance with the priority rights set forth in this Section V.

Depending upon market and financial conditions, the Boards of Directors of the Holding Company and the Bank, with the approval of the OTS and without further approval of the Members, may increase or decrease any of the above purchase limitations.

For purposes of this Section V, the directors of the Holding Company and the Bank shall not be deemed to be Associates or a group acting in concert solely as a result of their serving in such capacities.

Each Person purchasing Holding Company Conversion Stock in the Conversion shall be deemed to confirm that such purchase does not conflict with the above purchase limitations.

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E. Restrictions and Other Characteristics of Holding Company Conversion Stock Being Sold

1. Transferability. Holding Company Conversion Stock purchased by Persons other than directors and Officers of the Holding Company or the Bank will be transferable without restriction. Shares purchased by directors or Officers shall not be sold or otherwise disposed of for value for a period of one year from the date of Conversion, except for any disposition of such shares (i) following the death of the original purchaser, or (ii) resulting from an exchange of securities in a merger or acquisition approved by the applicable regulatory authorities. Any transfers that could result in a change in control of the Bank or the Holding Company or result in the ownership by any Person or group acting in concert of more than 10% of any class of the Bank's or the Holding Company's equity securities are subject to the prior approval of the OTS.

The certificates representing shares of Holding Company Conversion Stock issued to directors and Officers shall bear a legend giving appropriate notice of the one-year holding period restriction. Appropriate instructions shall be given to the transfer agent for such stock with respect to the applicable restrictions relating to the transfer of restricted stock. Any shares of common stock of the Holding Company subsequently issued as a stock dividend, stock split, or otherwise, with respect to any such restricted stock, shall be subject to the same holding period restrictions for Holding Company or Bank directors and Officers as may be then applicable to such restricted stock.

No director or Officer of the Holding Company or of the Bank, or Associate of such a director or Officer, shall purchase any outstanding shares of capital stock of the Holding Company for a period of three years following the Conversion without the prior written approval of the OTS, except through a broker or dealer registered with the SEC or in a "negotiated transaction" involving more than one percent of the then-outstanding shares of common stock of the Holding Company. As used herein, the term "negotiated transaction" means a transaction in which the securities are offered and the terms and arrangements relating to any sale are arrived at through direct communications between the seller or any Person acting on its behalf and the purchaser or his investment representative. The term "investment representative" shall mean a professional investment advisor acting as agent for the purchaser and independent of the seller and not acting on behalf of the seller in connection with the transaction.

2. Repurchase and Dividend Rights. Any cash dividend by the Converted Bank, or stock repurchase by the Holding Company during the first year following Conversion, will to the extent required be made in accordance with OTS policies as in effect at the time of such cash dividends or stock repurchase.

3. Voting Rights. After Conversion, holders of Deposit Accounts will not have voting rights in the Bank or the Holding Company. Exclusive voting rights as to the Bank will be vested in the Holding Company, as the sole stockholder of the Bank. Voting rights as to the Holding Company will be held exclusively by its stockholders.

F. Exercise of Subscription Rights; Order Forms

1. If the Subscription Offering occurs concurrently with the solicitation of proxies for the Special Meeting, the subscription prospectus and Order Form may be sent to each Eligible Account Holder, Tax-Qualified Employee Plan,

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Other Member, and director, Officer and employee at their last known address as shown on the records of the Bank. However, the Bank may, and if the Subscription Offering commences after the Special Meeting the Bank shall, furnish a subscription prospectus and Order Form only to Eligible Account Holders, Tax-Qualified Employee Plans, Supplemental Eligible Account Holders, Other Members, and directors, Officers and employees who have returned to the Bank by a specified date prior to the commencement of the Subscription Offering a post card or other written communication requesting a subscription prospectus and Order Form. In such event, the Bank shall provide a postage-paid post card for this purpose and make appropriate disclosure in its proxy statement for the solicitation of proxies to be voted at the Special Meeting and/or letter sent in lieu of the proxy statement to those Eligible Account Holders, Tax-Qualified Employee Plans or Supplemental Eligible Account Holders who are not Members on the Voting Record Date.

2. Each Order Form will be preceded or accompanied by a subscription prospectus describing the Holding Company and the Converted Bank and the shares of Holding Company Conversion Stock being offered for subscription and containing all other information required by the OTS or the SEC or necessary to enable Persons to make informed investment decisions regarding the purchase of Holding Company Conversion Stock.

3. The Order Forms (or accompanying instructions) used for the Subscription Offering will contain, among other things, the following:

- (i) A clear and intelligible explanation of the Subscription Rights granted under the Plan to Eligible Account Holders, Tax-Qualified Employee Plans, Supplemental Eligible Account Holders, Other Members, and directors, Officers and employees;
- (ii) A specified expiration date by which Order Forms must be returned to and actually received by the Bank or its representative for purposes of exercising Subscription Rights, which date will be not less than 20 days after the Order Forms are mailed by the Bank;
- (iii) The Maximum Subscription Price to be paid for each share subscribed for when the Order Form is returned;
- (iv) A statement that 25 shares is the minimum number of shares of Holding Company Conversion Stock that may be subscribed for under the Plan;
- (v) A specifically designated blank space for indicating the number of shares being subscribed for;
- (vi) A set of detailed instructions as to how to complete the Order Form including a statement as to the available alternative methods of payment for the shares being subscribed for;
- (vii) Specifically designated blank spaces for dating and signing the Order Form;
- (viii) An acknowledgment that the subscriber has received the subscription prospectus;

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(ix) A statement of the consequences of failing to properly complete and return the Order Form, including a statement that the Subscription Rights will expire on the expiration date specified on the Order Form unless such expiration date is extended by the Holding Company and the Bank, and that the Subscription Rights may be exercised only by delivering the Order Form, properly completed and executed, to the Bank or its representative by the expiration date, together with required payment of the Maximum Subscription Price for all shares of Holding Company Conversion Stock subscribed for;

(x) A statement that the Subscription Rights are non-transferable and that all shares of Holding Company Conversion Stock subscribed for upon exercise of Subscription Rights must be purchased on behalf of the Person

exercising the Subscription Rights for his own account; and

(xi) A statement that, after receipt by the Bank or its representative, a subscription may not be modified, withdrawn or canceled without the consent of the Bank.

G. Method of Payment

Payment for all shares of Holding Company Conversion Stock subscribed for, computed on the basis of the Maximum Subscription Price, must accompany all completed Order Forms. Payment may be made in cash (if presented in Person), by check, or, if the subscriber has a Deposit Account in the Bank (including a certificate of deposit), the subscriber may authorize the Bank to charge the subscriber's Deposit Account.

If a subscriber authorizes the Bank to charge his or her Deposit Account, the funds will continue to earn interest, but may not be used by the subscriber until all Holding Company Conversion Stock has been sold or this Plan is terminated, whichever is earlier. The Bank will allow subscribers to purchase shares by withdrawing funds from certificate accounts without the assessment of early withdrawal penalties with the exception of prepaid interest in the form of promotional gifts. In the case of early withdrawal of only a portion of such account, the certificate evidencing such account shall be canceled if the remaining balance of the account is less than the applicable minimum balance requirement, in which event the remaining balance will earn interest at the passbook rate. This waiver of the early withdrawal penalty is applicable only to withdrawals made in connection with the purchase of Holding Company Conversion Stock under this Plan. Interest will also be paid, at not less than the then-current passbook rate, on all orders paid in cash, by check or money order, from the date payment is received until consummation of the Conversion. Payments made in cash, by check or money order will be placed by the Bank in an escrow or other account established specifically for this purpose.

In the event of an unfilled amount of any subscription order, the Converted Bank will make an appropriate refund or cancel an appropriate portion of the related withdrawal authorization, after consummation of the Conversion, including any difference between the Maximum Subscription Price and the Actual Subscription Price (unless subscribers are afforded the right to apply such difference to the purchase of additional whole shares). If for any reason the Conversion is not consummated, purchasers will have refunded to them all payments made and all withdrawal authorizations will be canceled in the case of subscription payments authorized from Deposit Accounts at the Bank.

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If any Tax-Qualified Employee Plans or Non-Tax-Qualified Employee Plans subscribe for shares during the Subscription Offering, such plans will not be required to pay for the shares subscribed for at the time they subscribe, but may pay for such shares of Holding Company Conversion Stock subscribed for upon consummation of the Conversion. In the event that, after the completion of the Subscription Offering, the amount of shares to be issued is increased above the maximum of the appraisal range included in the subscription prospectus, the Tax Qualified and Non-Tax Qualified Employee Plans shall be entitled to increase their subscriptions by a percentage equal to the percentage increase in the amount of shares to be issued above the maximum of the appraisal range provided that such subscriptions shall continue to be subject to applicable purchase limits and stock allocation procedures.

H. Undelivered, Defective or Late Order Forms; Insufficient Payment

The Boards of Directors of the Holding Company and the Bank shall have the absolute right, in their sole discretion, to reject any Order Form, including but not limited to, any Order Forms which (i) are not delivered or are returned by the United States Postal Service (or the addressee cannot be located); (ii) are not received back by the Bank or its representative, or are received after the expiration date specified thereon; (iii) are defectively completed or executed; (iv) are not accompanied by the total required payment for the shares of Holding Company Conversion Stock subscribed for (including cases in which the subscribers' Deposit Accounts or certificate accounts are insufficient to cover the authorized withdrawal for the required payment); or (v) are submitted by or on behalf of a Person whose representations the Boards of Directors of the Holding Company and the Bank believe to be false or who they otherwise believe, either alone or acting in concert with others, is violating, evading or circumventing, or intends to violate, evade or circumvent, the terms and conditions of this Plan. In such event, the Subscription Rights of the Person to whom such rights have been granted will not be honored and will be treated as though such Person failed to return the completed Order Form within the time period specified therein. The Bank may, but will not be required to, waive any irregularity relating to any Order Form or require submission of corrected Order Forms or the remittance of full payment for subscribed shares by such date as the Bank may specify. The interpretation of the Holding Company and the Bank of the terms and conditions of this Plan and of the proper completion of the Order Form will be final, subject to the authority of the OTS.

I. Member in Non-Qualified States or in Foreign Countries

The Holding Company and the Bank will make reasonable efforts to comply with the securities laws of all states in the United States in which Persons entitled to subscribe for Holding Company Conversion Stock pursuant to this Plan reside. However, no shares will be offered or sold under the Plan of Conversion to any such Person who (1) resides in a foreign country or (2) resides in a state of the United States in which a small number of Persons otherwise eligible to subscribe for shares under this Plan reside or as to which the Holding Company and the Bank determine that compliance with the securities laws of such state would be impracticable for reasons of cost or otherwise, including, but not limited to, a requirement that the Holding Company or the Bank or any of their Officers, directors or employees register, under the securities laws of such state, as a broker, dealer, salesman or agent. No payments will be made in lieu of the granting of Subscription Rights to any such Person.

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## VI. FEDERAL STOCK CHARTER AND BYLAWS

A. As part of the Conversion, the Bank will take all appropriate steps to amend its charter to read in the form of a federal stock savings institution charter as prescribed by the OTS. The name of the Bank, as converted, will be "Pacific Trust Bank." A copy of the proposed stock charter is available upon request. By their approval of this Plan, the Members of the Bank will thereby approve and adopt such charter.

B. The Bank will also take appropriate steps to amend its bylaws to read in the form prescribed by the OTS for a federal stock savings institution. A copy of the proposed federal stock bylaws is available upon request.

C. The effective date of the adoption of the Bank's federal stock charter and bylaws shall be the date of the issuance and sale of the Holding Company Conversion Stock as specified by the OTS.

## VII. HOLDING COMPANY CERTIFICATE OF INCORPORATION

A copy of the proposed certificate of incorporation of the Holding Company will be made available to Members upon request.

## VIII. DIRECTORS OF THE CONVERTED BANK

Each Person serving as a member of the Board of Directors of the Bank at the time of the Conversion will thereupon become a director of the Converted Bank.

## IX. STOCK OPTION AND INCENTIVE PLAN AND RECOGNITION AND RETENTION PLAN

In order to provide an incentive for directors, Officers and employees of the Holding Company and its subsidiaries (including the Converted Bank), the Board of Directors of the Holding Company intends to adopt, subject to shareholder approval, a stock option and incentive plan and a recognition and retention plan following the Conversion.

## X. CONTRIBUTIONS TO TAX-QUALIFIED EMPLOYEE PLANS

The Converted Bank and the Holding Company may in their discretion make scheduled contributions to any Tax-Qualified Employee Plans, provided that any such contributions which are for the acquisition of Holding Company Conversion Stock, or the repayment of debt incurred for such an acquisition, do not cause the Converted Bank to fail to meet its regulatory capital requirements.

## XI. SECURITIES REGISTRATION AND MARKET MAKING

Promptly following the Conversion, the Holding Company will register its stock with the SEC pursuant to the Exchange Act. In connection with the registration, the Holding Company will undertake not to deregister such stock, without the approval of the OTS, for a period of three years thereafter.

The Holding Company shall use its best efforts to encourage and assist two or more market makers to establish and maintain a market for its common stock promptly following Conversion. The Holding Company will also use its best efforts to cause its common stock to be quoted on the Nasdaq System or to be listed on a national or regional securities exchange.

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## XII. STATUS OF SAVINGS ACCOUNTS AND LOANS SUBSEQUENT TO CONVERSION

Each Deposit Account holder shall retain, without payment, a withdrawable Deposit Account or Accounts in the Converted Bank, equal in amount to the withdrawable value of such account holder's Deposit Account or Accounts prior to Conversion. All Deposit Accounts will continue to be insured by the SAIF up to the applicable limits of insurance coverage, and shall be subject to the same terms and conditions (except as to voting and liquidation rights) as such Deposit Account in the Bank at the time of the Conversion. All loans shall retain the same status after Conversion as the loans had prior to Conversion.

## XIII. LIQUIDATION ACCOUNT

For purposes of granting to Eligible Account Holders and Supplemental Eligible Account Holders who continue to maintain Deposit Accounts at the Converted Bank a priority in the event of a complete liquidation of the Converted Bank, the Converted Bank will, at the time of Conversion, establish a liquidation account in an amount equal to the net worth of the Bank as shown on its latest statement of financial condition contained in the final offering circular used in connection with the Conversion. The creation and maintenance of the liquidation account will not operate to restrict the use or application of any of the regulatory capital accounts of the Converted Bank; provided, however, that such regulatory capital accounts will not be voluntarily reduced below the required dollar amount of the liquidation account. Each Eligible Account Holder and Supplemental Eligible Account Holder shall, with respect to the Deposit Account held, have a related inchoate interest in a portion of the liquidation account balance ("subaccount balance").

The initial subaccount balance of a Deposit Account held by an Eligible Account Holder and/or Supplemental Eligible Account Holder shall be determined by multiplying the opening balance in the liquidation account by a fraction of which the numerator is the amount of the Deposit Account on the Eligibility Record Date and/or the Supplemental Eligibility Record Date and the denominator is the total amount of the Deposit Accounts of all Eligible Account Holders and Supplemental Eligible Account Holders on such record dates in the Bank. For Deposit Accounts in existence at both dates, separate subaccounts shall be determined on the basis of the deposit balance in such Deposit Accounts on such record dates. Such initial subaccount balance shall not be increased, and it shall be subject to downward adjustment as provided below.

If the deposit balance in any Deposit Account of an Eligible Account Holder or Supplemental Eligible Account Holder at the close of business on any annual closing date subsequent to the record date is less than the lesser of (i) the deposit balance in such Deposit Account at the close of business on any other annual closing date subsequent to the Eligibility Record Date or the Supplemental Eligibility Record Date or (ii) the amount of the deposit balance in such Deposit Account on the Eligibility Record Date or Supplemental Eligibility Record Date, the subaccount balance shall be reduced in an amount proportionate to the reduction in such deposit balance. In the event of a downward adjustment, the subaccount balance shall not be subsequently increased, notwithstanding any increase in the deposit balance of the related Deposit Account. If all funds in such Deposit Account are withdrawn, the related subaccount balance shall be reduced to zero.

In the event of a complete liquidation of the Converted Bank (and only in such event), each Eligible Account Holder and Supplemental Eligible Account Holder shall be entitled to receive a liquidation distribution from the liquidation account in the amount of the then-current adjusted subaccount balances for Deposit Accounts then held before any liquidation distribution may be made to stockholders. No merger, consolidation, bulk purchase of assets with assumptions of Deposit Accounts and other liabilities, or similar transactions with another institution the accounts of which are insured by the SAIF, shall be considered to

be a complete liquidation. In such transactions, the liquidation account shall be assumed by the surviving institution.

## XIV. RESTRICTIONS ON ACQUISITION OF CONVERTED ASSOCIATION

Regulations of the OTS limit acquisitions, and offers to acquire, direct or indirect beneficial ownership of more than 10% of any class of an equity security of the Converted Bank or the Holding Company. In addition, consistent with the regulations of the OTS, the charter of the Converted Bank shall provide that for a period of five years following completion of the Conversion: (i) no Person (i.e., no individual, group acting in concert, corporation, partnership, association, joint stock company, trust, or unincorporated organization or similar company, syndicate, or any other group formed for the purpose of acquiring, holding or disposing of securities of an insured institution) shall directly or indirectly offer to acquire or acquire beneficial ownership of more than 10% of any class of the Converted Bank's equity securities. Shares beneficially owned in violation of this charter provision shall not be counted as shares entitled to vote and shall not be voted by any Person or counted as voting shares in connection with any matter submitted to the shareholders for a vote. This limitation shall not apply to any offer to acquire or

acquisition of beneficial ownership of more than 10% of the common stock of the Converted Bank by a corporation whose ownership is or will be substantially the same as the ownership of the Converted Bank, provided that: (i) the offer or acquisition is made more than one year following the date of completion of the Conversion; (ii) shareholders shall not be permitted to cumulate their votes for elections of directors; and (iii) special meetings of the shareholders relating to changes in control or amendment of the charter may only be called by the Board of Directors.

#### XV. AMENDMENT OR TERMINATION OF PLAN

If necessary or desirable, the Plan may be amended at any time prior to submission of the Plan and proxy materials to the Members by a two-thirds vote of the respective Boards of Directors of the Holding Company and the Bank. After submission of the Plan and proxy materials to the Members, the Plan may be amended by a two-thirds vote of the respective Boards of Directors of the Holding Company and the Bank only with the concurrence of the OTS. In the event that the Bank determines that for tax purposes or otherwise it is in the best interest of the Bank to convert from a federal mutual to a federal stock institution without the concurrent formation of a holding company, the Plan may be substantively amended, with OTS approval, in such respects as the Board of Directors of the Bank deems appropriate to reflect such change from a holding company conversion to a direct conversion. In the event the Plan is so amended, common stock of the Bank will be substituted for Holding Company Conversion Stock in the Subscription, Direct Community or Public Offerings, and subscribers will be resolicited as described in Section V hereof. Any amendments to the Plan (including amendments to reflect the elimination of the concurrent holding company formation) made after approval by the Members with the concurrence of the OTS shall not necessitate further approval by the Members unless otherwise required.

The Plan may be terminated by a two-thirds vote of the Bank's Board of Directors at any time prior to the Special Meeting of Members, and at any time following such Special Meeting with the concurrence of the OTS. In its discretion, the Board of Directors of the Bank may modify or terminate the Plan upon the order or with the approval of the OTS and without further approval by Members. The Plan shall terminate if the sale of all shares of Holding Company Conversion Stock is not completed within 24 months of the date of the Special Meeting. A specific resolution approved by a majority of the Board of Directors of the Bank is required in order for the Bank to terminate the Plan prior to the end of such 24-month period.

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#### XVI. EXPENSES OF THE CONVERSION

The Holding Company and the Bank shall use their best efforts to assure that expenses incurred by them in connection with the Conversion shall be reasonable.

#### XVII. TAX RULING

Consummation of the Conversion is expressly conditioned upon prior receipt of either a ruling of the United States Internal Revenue Service or an opinion of tax counsel with respect to federal taxation, and either a ruling of the California taxation authorities or an opinion of tax counsel or other tax advisor with respect to California taxation, to the effect that consummation of the transactions contemplated herein will not be taxable to the Holding Company or the Converted Bank.

#### XVIII. EXTENSION OF CREDIT FOR PURCHASE OF STOCK

The Bank may not knowingly loan funds or otherwise extend credit to any Person to purchase in the Conversion shares of Holding Company Conversion Stock.

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End.

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BYLAWS

ARTICLE I

STOCKHOLDERS

**Section 1.01. Annual Meeting.** An annual meeting of the stockholders, for the election of directors to succeed those whose terms expire and for the transaction of such other business as may properly come before the meeting, shall be held at such place, on such date, and at such time as the Board of Directors shall each year fix. Failure to hold an annual meeting does not invalidate the Corporation's existence or affect any otherwise valid corporate act.

**Section 1.02. Special Meetings.** Subject to the rights of the holders of any class or series of preferred stock of the Corporation, special meetings of stockholders of the Corporation may be called by the President or by the Board of Directors pursuant to a resolution adopted by a majority of the total number of directors which the Corporation would have if there were no vacancies on the Board of Directors (hereinafter the "Whole Board"). Special meetings of the stockholders shall be called by the Secretary at the request of stockholders only on the written request of stockholders entitled to cast at least a majority of all the votes entitled to be cast at the meeting. Such written request will state the purpose or purposes of the meeting and the matters proposed to be acted upon at the meeting, and shall be delivered at the home office of the Corporation addressed to the President or the Secretary. The Secretary shall inform the stockholders who make the request of the reasonable estimated cost of preparing and mailing a notice of the meeting and, upon payment of these costs to the Corporation, notify each stockholder entitled to notice of the meeting. The Board of Directors shall have the sole power to fix (1) the record date for determining stockholders entitled to request a special meeting of stockholders and the record date for determining stockholders entitled to notice of and to vote at the special meeting and (2) the date, time and place of the special meeting.

**Section 1.03. Notice of Meetings.** Not less than ten nor more than 90 days before each stockholders' meeting, the Secretary shall give written notice of the meeting to each stockholder entitled to vote at the meeting and to each other stockholder entitled to notice of the meeting. The notice shall state the time and place of the meeting and, if the meeting is a special meeting or notice of the purpose is required by statute, the purpose of the meeting. Notice is given to a stockholder when it is personally delivered to the stockholder, left at the stockholder's usual place of business, mailed to the stockholder at his or her address as it appears on the records of the Corporation, or transmitted to the stockholder by electronic mail to any electronic mail address of the stockholder or by any other electronic means. Notwithstanding the foregoing provisions, each person who is entitled to notice waives notice if such person, before or after the meeting, signs a waiver of the notice which is filed with the records of the stockholders' meeting, or is present at the meeting in person or by proxy.

**Section 1.04. Adjournment.** A meeting of stockholders convened on the date for which it was called may be adjourned from time to time without further notice to a date not more than 120 days after the original record date. At any adjourned meeting, any business may be transacted which might have been transacted at the original meeting.

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**Section 1.05. Quorum; Voting.** At any meeting of the stockholders, the presence in person or by proxy of stockholders entitled to cast one third of all the votes entitled to be cast at the meeting constitutes a quorum for all purposes, unless or except to the extent that the presence of a larger number may be required by law. Where a separate vote by a class or classes is required, a majority of the shares of such class or classes, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to that vote on that matter.

If a quorum shall fail to attend any meeting, the chairman of the meeting or the holders of a majority of the shares of stock entitled to vote who are present, in person or by proxy, may adjourn the meeting to another place, date or time.

**Section 1.06. General Right to Vote; Proxies.** Unless the Charter provides for a greater or lesser number of votes per share or limits or denies voting rights, each outstanding share of stock, regardless of class, is entitled to one vote on each matter submitted to a vote at a meeting of stockholders. In all elections for directors, directors shall be determined by a plurality of the votes cast, and except as otherwise required by law or as provided in the Corporation's Charter, all other matters shall be determined by a majority of the votes cast at the meeting.

A stockholder may vote the stock the stockholder owns of record either in person or by proxy. A stockholder may sign a writing authorizing another person to act as proxy. Signing may be accomplished by the stockholder or the stockholder's authorized agent signing the writing or causing the stockholder's signature to be affixed to the writing by any reasonable means, including facsimile signature. A stockholder may authorize another person to act as proxy by transmitting, or authorizing the transmission of a telegram, cablegram, datagram, electronic mail or other means of electronic transmission to the person authorized to act as proxy

or to a proxy solicitation firm, proxy support service organization, or other person authorized by the person who will act as proxy to receive the transmission. Unless a proxy provides otherwise, it is not valid more than 11 months after its date. A proxy is revocable by a stockholder at any time without condition or qualification unless the proxy states that it is irrevocable and the proxy is coupled with an interest. A proxy may be made irrevocable for so long as it is coupled with an interest. The interest with which a proxy may be coupled includes an interest in the stock to be voted under the proxy or another general interest in the Corporation or its asset or liabilities.

#### **Section 1.07. Conduct of Business.**

(a) Such person as the Board of Directors may have designated or, in the absence of such a person, the President of the Corporation shall call to order any meeting of the stockholders and act as chairman of the meeting. In the absence of the Secretary of the Corporation, the secretary of the meeting shall be such person as the chairman appoints. The chairman of any meeting of stockholders shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussion as seem to him or her in order.

(b) Nominations of persons for election to the Board of Directors and the proposal of business to be considered by the stockholders may be made at an annual meeting of stockholders (a) pursuant to the Corporation's notice of meeting, (b) by or at the direction of the Board of Directors or (c) by any stockholder of the Corporation who was a stockholder of record at the time of giving

notice provided for in Section 1.09, who is entitled to vote at the meeting and who complied with the notice procedures set forth in Section 1.09. Nominations of persons for election to the Board of Directors and the proposal of business to be considered by the stockholders may be made at a special meeting of stockholders only pursuant to the Corporation's notice of meeting. The chairman of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made in accordance with the procedures set forth in Section 1.09 and, if any proposed nomination or business is not in compliance with Section 1.09, to declare that such defective nomination or proposal be disregarded.

**Section 1.08. Conduct of Voting.** The Board of Directors shall, in advance of any meeting of stockholders, appoint one or more persons as inspectors of election, to act at the meeting or any adjournment thereof and make a written report thereof, in accordance with applicable law. At all meetings of stockholders, the proxies and ballots shall be received, and all questions touching the qualification of voters, the validity of proxies and the acceptance or rejection of votes not otherwise specified by these Bylaws, the Corporation's Charter or law, shall be decided or determined by the inspector of elections. All voting, including on the election of directors but excepting where otherwise required by law, may be by a voice vote; provided, however, that upon demand therefore by a stockholder entitled to vote or his or her proxy, a stock vote shall be taken. Every stock vote shall be taken by ballot, each of which shall state the name of the stockholder or proxy voting and such other information as may be required under the procedure established for the meeting. Every vote taken by ballot shall be counted by an inspector or inspectors appointed by the chairman of the meeting. No candidate for election as a director at a meeting shall serve as an inspector at such meeting.

**Section 1.09. Stockholder Proposals.** For any stockholder proposal to be presented in connection with an annual meeting of stockholders of the Corporation (including proposals made under rule 14a-8 of the Securities Exchange Act of 1934, as amended (the "Exchange Act")), including any nomination or proposal relating to the nomination of a director to be elected to the Board of Directors of the Corporation, the stockholders must have given timely notice thereof in writing to the Secretary of the Corporation. To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not less than 90 days or more than 120 days prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is advanced by more than 30 days or delayed by more than 60 days from such anniversary date, notice by the stockholder to be timely must be so delivered not earlier than the 120<sup>th</sup> day prior to such annual meeting and not later than the close of business on the later of the 90<sup>th</sup> day prior to such annual meeting or the tenth day following the day on which notice of the date of annual meeting was mailed or public announcement of the date of such meeting is first made. No adjournment or postponement of an annual meeting shall commence a new period for the giving of notice of a stockholder proposal hereunder. Such stockholder's notice shall set forth (a) as to each person whom the stockholder proposes to nominate for election or reelection as a director all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors, or is otherwise required, in each case pursuant to Regulation 14A under the Exchange Act (including such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected); (b) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at

the meeting and any material interest in such business of such stockholder and of the beneficial owner, if any, on whose behalf the proposal is made; and (c) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made, (i) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner; (ii) the class and number of shares of stock of the Corporation which are owned beneficially and of record by such stockholders and such beneficial owner; and (iii) a representation that such stockholder intends to appear in person or by proxy at the meeting to bring such business before the meeting.

**Section 1.10. Informal Action by Stockholders.** Any action required or permitted to be taken at a meeting of stockholders may be taken without a meeting if there is filed with the records of the stockholders' meetings a unanimous written consent which sets forth the action and is signed by each stockholder entitled to vote on the matter and a written waiver of any right to dissent signed by each stockholder entitled to notice of the meeting but not entitled to vote at the meeting.

**Section 1.11. List of Stockholders.** At each meeting of stockholders, a full, true and complete list of all stockholders entitled to vote at such meeting, showing the number and class of shares held by each and certified by the transfer agent for such class or by the Secretary, shall be furnished by the Secretary.

## ARTICLE II

### BOARD OF DIRECTORS

**Section 2.01. Function of Directors, Number and Term of Office.** The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. The number of directors shall be as provided for in the Corporation's Charter. The Board of Directors shall annually elect a Chairman of the Board and a President from among its members and shall designate, when present, either the Chairman of the Board or the President to preside at its meetings.

The directors, other than those who may be elected by the holders of any class or series of preferred stock, shall be divided into three classes, as nearly equal in number as reasonably possible, with the term of office of the first class to expire at the first annual meeting of stockholders, the term of office of the second class to expire at the annual meeting of stockholders one year thereafter and the term of office of the third class to expire at the annual meeting of stockholders two years thereafter, with each director to hold office until his or her successor shall have been duly elected and qualified. At each annual meeting of stockholders, commencing with the first annual meeting, directors elected to succeed those directors whose terms expire shall be elected for a term of office to expire at the third succeeding annual meeting of stockholders after their election, with each director to hold office until his or her successor shall have been duly elected and qualified.

**Section 2.02. Vacancies and Newly Created Directorships.** Subject to the rights of the holders of any class or series of preferred or other stock then outstanding, newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the Board of Directors resulting from death, resignation, retirement, disqualification, removal from office or other cause may be filled by a majority vote of the directors then in office, though less than a quorum, and,

by virtue of the Corporation's election made in its Charter to be subject to Section 3-804(c)(3) of the Maryland General Corporation Law ("MGCL"), any director so chosen shall hold office for the remainder of the full term of the class of directors in which the vacancy occurred and until a successor is elected and qualified. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

Any director or the entire Board of Directors may be removed only in accordance with the provisions of the Corporation's Charter.

**Section 2.03. Regular Meetings.** Regular meetings of the Board of Directors shall be held at such place or places, on such date or dates, and at such time or times as shall have been established by the Board of Directors and publicized among all directors. A notice of each regular meeting shall not be required. Any regular meeting of the Board of Directors may adjourn from time to time to reconvene at the same or some other place, and no notice need be given of any such adjourned meeting other than by announcement.

**Section 2.04. Special Meetings.** Special meetings of the Board of Directors may be called by one-third (1/3) of the directors then in office (rounded up to the nearest whole number) or by the President and shall be held at such place, on such date,

and at such time as they or he or she shall fix. Notice of the place, date, and time of each such special meeting shall be given to each director by whom it is not waived by mailing written notice not less than five days before the meeting or by telegraphing or telexing or by facsimile or electronic transmission of the same not less than 24 hours before the meeting. Unless otherwise indicated in the notice thereof, any and all business may be transacted at a special meeting. No notice of any meeting of the Board of Directors need be given to any director who attends except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened, or to any director who, in writing executed and filed with the records of the meeting either before or after the holding thereof, waives such notice. Any special meeting of the Board of Directors may adjourn from time to time to reconvene at the same or some other place, and no notice need be given of any such adjourned meeting other than by announcement.

**Section 2.05. Quorum.** At any meeting of the Board of Directors, a majority of the authorized number of directors then constituting the Board shall constitute a quorum for all purposes. If a quorum shall fail to attend any meeting, a majority of those present may adjourn the meeting to another place, date, or time, without further notice or waiver thereof.

**Section 2.06. Participation in Meetings By Conference Telephone.** Members of the Board of Directors, or of any committee thereof, may participate in a meeting of such Board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and such participation shall constitute presence in person at such meeting.

**Section 2.07. Conduct of Business.** At any meeting of the Board of Directors, business shall be transacted in such order and manner as the Board may from time to time determine, and all matters shall be determined by the vote of a majority of the directors present, except as otherwise

provided in these Bylaws, the Corporation's Charter or required by law. Action may be taken by the Board of Directors without a meeting if a unanimous written consent which sets forth the action is signed by each member of the Board of Directors, and the writing or writings are filed with the minutes of proceedings of the Board of Directors.

**Section 2.08. Powers.** The Board of Directors may, except as otherwise required by law, these Bylaws or the Corporation's Charter, exercise all such powers and do all such acts and things as may be exercised or done by the Corporation, including, without limiting the generality of the foregoing, the unqualified power:

- (i) To declare dividends from time to time in accordance with law;
- (ii) To purchase or otherwise acquire any property, rights or privileges on such terms as it shall determine;
- (iii) To authorize the creation, making and issuance, in such form as it may determine, of written obligations of every kind, negotiable or non-negotiable, secured or unsecured, and to do all things necessary in connection therewith;
- (iv) To remove any officer of the Corporation with or without cause, and from time to time to devolve the powers and duties of any officer upon any other person for the time being;
- (v) To confer upon any officer of the Corporation the power to appoint, remove and suspend subordinate officers, employees and agents;
- (vi) To adopt from time to time such stock, option, stock purchase, bonus or other compensation plans for directors, officers, employees and agents of the Corporation and its subsidiaries as it may determine;
- (vii) To adopt from time to time such insurance, retirement, and other benefit plans for directors, officers, employees and agents of the Corporation and its subsidiaries as it may determine; and
- (viii) To adopt from time to time regulations, not inconsistent with these Bylaws, for the management of the Corporation's business and affairs.

**Section 2.09. Compensation of Directors.** Directors, as such, may receive, pursuant to resolution of the Board of Directors, fixed fees (and expenses, if any) and other compensation for their services as directors, including, without limitation, their services as members of committees of the Board of Directors.

**Section 2.10. Presumption of Assent.** A director of the Corporation who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his or her dissent or abstention shall be entered in the minutes of the meeting or unless he or she shall file his or her written dissent to such action with

person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by certified mail, return receipt requested, to the Secretary of the Corporation within 24 hours after the adjournment of the meeting. Such right to dissent shall not apply to a director who votes in favor of such action or failed to make his dissent known at the meeting.

#### **Section 2.11. Qualifications.**

(a) In order to qualify to stand for election or to continue to serve as a director, a person must have his or her principal residence in any county in which the Corporation or any of its subsidiaries has an office.

(b) No person shall be eligible for election or appointment to the Board of Directors if such person (i) has, within the previous 10 years, been the subject of supervisory action by a financial regulatory agency that resulted in a cease and desist order or an agreement or other written statement subject to public disclosure under 12 U.S.C. 1818 (u), or any successor provision, (ii) has been convicted of a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under state or federal law, or (iii) is currently charged in any information, indictment, or other complaint with the commission of or participation in such a crime. No person shall be eligible for election to the Board of Directors if such person is the nominee or representative of a person or group that includes a person who is ineligible for election to the Board of Directors under this Section 2.11(b). The Board of Directors shall have the power to construe and apply the provisions of this Section 2.11(b) and to make all determinations necessary or desirable to implement such provisions, including but not limited to determinations as to whether a person is a nominee or representative of a person or a group and whether a person is included in a group.

### **ARTICLE III**

#### **COMMITTEES**

**Section 3.01. Committees of the Board of Directors.** The Board of Directors may appoint from among its members an Executive Committee and other committees composed of one or more directors and delegate to these committees any of the powers of the Board of Directors, except the power to authorize dividends on stock, elect directors, issue stock other than as provided in the next sentence, recommend to the stockholders any action which requires stockholder approval, amend these Bylaws, or approve any merger or share exchange which does not require stockholder approval. If the Board of Directors has given general authorization for the issuance of stock providing for or establishing a method or procedure for determining the maximum number of shares to be issued, a committee of the Board of Directors, in accordance with that general authorization or any stock option or other plan or program adopted by the Board of Directors, may authorize or fix the terms of stock subject to classification or reclassification and the terms on which any stock may be issued, including all terms and conditions required or permitted to be established or authorized by the Board of Directors under Sections 2-203 and 2-208 of the MGCL. Any committee so designated may exercise the power and authority of the Board of Directors if the resolution which designated the committee or a supplemental resolution of the Board of Directors shall so provide. In the absence or disqualification of any member of any committee in his or her place, the member or members of

the committee present at the meeting and not disqualified from voting, whether or not he or she or they constitute a quorum, may by unanimous vote appoint another member of the Board of Directors to act at the meeting in the place of the absent or disqualified member.

**Section 3.02. Conduct of Business.** Each committee may determine the procedural rules for meeting and conducting its business and shall act in accordance therewith, except as otherwise provided herein or required by law. Adequate provision shall be made for notice to members of all meetings, one-third (1/3) of the members shall constitute a quorum unless the committee shall consist of one or two members, in which event one member shall constitute a quorum; and all matters shall be determined by a majority vote of the members present. Action may be taken by any committee without a meeting if a unanimous written consent is signed by each member of the committee, and the writing or writings are filed with the minutes of the proceedings of such committee.

**Section 3.03. Nominating Committee.** The Board of Directors may appoint a Nominating Committee of the Board,

consisting of not less than three members, one of which shall be the President if, and only so long as, the President remains in office as a member of the Board of Directors. The Nominating Committee shall have authority (i) to review any nominations for election to the Board of Directors made by a stockholder of the Corporation pursuant to Sections 1.07 and 1.09 of these Bylaws in order to determine compliance with such Bylaw and (ii) to recommend to the Board of Directors nominees for election to the Board of Directors to replace those directors whose terms expire at the annual meeting of stockholders next ensuing.

## ARTICLE IV

### OFFICERS

#### **Section 4.01. Generally.**

(a) The Board of Directors as soon as may be practicable after the annual meeting of stockholders shall choose a President, a Secretary and a Treasurer and from time to time may choose such other officers as it may deem proper. The President shall be chosen from among the directors. Any number of offices may be held by the same person, except no person may serve concurrently as both President and Vice President of the Corporation.

(b) The term of office of all officers shall be until the next annual election of officers and until their respective successors are chosen, but any officer may be removed from office at any time by the affirmative vote of a majority of the authorized number of directors then constituting the Board of Directors.

(c) All officers chosen by the Board of Directors shall each have such powers and duties as generally pertain to their respective offices, subject to the specific provisions of this Article IV. Such officers shall also have such powers and duties as from time to time may be conferred by the Board of Directors or by any committee thereof.

**Section 4.02. President.** The President shall be the chief executive officer and, subject to the control of the Board of Directors, shall have general power over the management and oversight of the administration and operation of the Corporation's business and general supervisory power and authority over its policies and affairs. The President shall see that all orders and resolutions of the Board of Directors and of any committee thereof are carried into effect.

Each meeting of the stockholders and of the Board of Directors shall be presided over by such officer as has been designated by the Board of Directors or, in his or her absence, by such officer or other person as is chosen at the meeting. The Secretary or, in his or her absence, the General Counsel of the Corporation or such officer as has been designated by the Board of Directors or, in his or her absence, such officer or other person as is chosen by the person presiding, shall act as secretary of each such meeting.

**Section 4.03. Vice President.** The Vice President or Vice Presidents, if any, shall perform the duties of the President in the President's absence or during his or her disability to act. In addition, the Vice Presidents shall perform the duties and exercise the powers usually incident to their respective offices and/or such other duties and powers as may be properly assigned to them from time to time by the Board of Directors, the Chairman of the Board or the President.

**Section 4.04. Secretary.** The Secretary or an Assistant Secretary shall issue notices of meetings, shall keep their minutes, shall have charge of the seal and the corporate books, shall perform such other duties and exercise such other powers as are usually incident to such offices and/or such other duties and powers as are properly assigned thereto by the Board of Directors, the Chairman of the Board or the President.

**Section 4.05. Treasurer.** The Treasurer shall have charge of all monies and securities of the Corporation, other than monies and securities of any division of the Corporation which has a treasurer or financial officer appointed by the Board of Directors, and shall keep regular books of account. The funds of the Corporation shall be deposited in the name of the Corporation by the Treasurer with such banks or trust companies or other entities as the Board of Directors from time to time shall designate. The Treasurer shall sign or countersign such instruments as require his or her signature, shall perform all such duties and have all such powers as are usually incident to such office and/or such other duties and powers as are properly assigned to him or her by the Board of Directors, the Chairman of the Board or the President, and may be required to give bond, payable by the Corporation, for the faithful performance of his duties in such sum and with such surety as may be required by the Board of Directors.

**Section 4.06. Assistant Secretaries and Other officers.** The Board of Directors may appoint one or more assistant secretaries and one or more assistants to the Treasurer, or one appointee to both such positions, which officers shall have such powers and shall perform such duties as are provided in these Bylaws or as may be assigned to them by the Board of Directors, the Chairman of the Board or the President.

**Section 4.07. Action with Respect to Securities of Other Corporations.** Unless otherwise directed by the Board of Directors, the President, or any officer of the Corporation authorized by the President, shall have power to vote and otherwise act on behalf of the Corporation, in person or by

proxy, at any meeting of stockholders of or with respect to any action of stockholders of any other corporation in which this Corporation may hold securities and otherwise to exercise any and all rights and powers which this Corporation may possess by reason of its ownership of securities in such other Corporation.

## ARTICLE V

### STOCK

**Section 5.01. Certificates of Stock.** The Board of Directors may determine to issue certificated or uncertificated shares of capital stock and other securities of the Corporation. For certificated stock, each stockholder is entitled to certificates which represent and certify the shares of stock he or she holds in the Corporation. Each stock certificate shall include on its face the name of the Corporation, the name of the stockholder or other person to whom it is issued, and the class of stock and number of shares it represents. It shall also include on its face or back (a) a statement of any restrictions on transferability and a statement of the designations and any preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends, qualifications, and terms and conditions of redemption of the stock of each class which the Corporation is authorized to issue, of the differences in the relative rights and preferences between the shares of each series of a preferred or special class in series which the Corporation is authorized to issue, to the extent they have been set, and of the authority of the Board of Directors to set the relative rights and preferences of subsequent series of a preferred or special class of stock or (b) a statement which provides in substance that the Corporation will furnish a full statement of such information to any stockholder on request and without charge. Such request may be made to the Secretary or to the Corporation's transfer agent. Upon the issuance of uncertificated shares of capital stock, the Corporation shall send the stockholder a written statement of the same information required above on stock certificates. Each stock certificate shall be in such form, not inconsistent with law or with the Corporation's Charter, as shall be approved by the Board of Directors or any officer or officers designated for such purpose by resolution of the Board of Directors. Each stock certificate shall be signed by the President or a Vice President, and countersigned by the Secretary, an Assistant Secretary, the Treasurer, or an Assistant Treasurer. Each certificate may be sealed with the actual corporate seal or a facsimile of it or in any other form and the signatures may be either manual or facsimile signatures. A certificate is valid and may be issued whether or not an officer who signed it is still an officer when it is issued. A certificate may not be issued until the stock represented by it is fully paid.

**Section 5.02. Transfers of Stock.** Upon surrender to the Corporation or the transfer agent of the Corporation of a stock certificate duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, the Corporation shall issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction upon its books.

The Corporation shall be entitled to treat the holder of record of any share of stock as the holder in fact thereof and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such share or on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of the State of Maryland.

Notwithstanding the foregoing, transfers of shares of any class of stock will be subject in all respects to the Charter of the Corporation and all of the terms and conditions contained therein.

**Section 5.03. Record Dates or Closing of Transfer Books.** The Board of Directors may, and shall have sole power to, set a record date or direct that the stock transfer books be closed for a stated period for the purpose of making any proper determination with respect to stockholders, including which stockholders are entitled to notice of a meeting, vote at a meeting, receive a dividend, or be allotted other rights. The record date may not be prior to the close of business on the day the record date is fixed nor, subject to Section 1.04, more than 90 days before the date on which the action requiring the determination will be taken;

the transfer books may not be closed for a period longer than 20 days; and, in the case of a meeting of stockholders, the record date or the closing of the transfer books shall be at least ten days before the date of the meeting.

**Section 5.04. Stock Ledger.** The Corporation shall maintain a stock ledger which contains the name and address of each stockholder and the number of shares of stock of each class which the stockholder holds. The stock ledger may be in written form or in any other form which can be converted within a reasonable time into written form for visual inspection. The original or a duplicate of the stock ledger shall be kept at the offices of a transfer agent for the particular class of stock or, if none, at the principal executive offices of the Corporation.

**Section 5.05. Certification of Beneficial Owners.** The Board of Directors may adopt by resolution a procedure by which a stockholder of the Corporation may certify in writing to the Corporation that any shares of stock registered in the name of the stockholder are held for the account of a specified person other than the stockholder. The resolution shall set forth the class of stockholders who may certify; the purpose for which the certification may be made; the form of certification and the information to be contained in it; if the certification is with respect to a record date or closing of the stock transfer books, the time after the record date or closing of the stock transfer books within which the certification must be received by the Corporation; and any other provisions with respect to the procedure which the Board of Directors considers necessary or desirable. On receipt of a certification which complies with the procedure adopted by the Board of Directors in accordance with this Section, the person specified in the certification is, for the purpose set forth in the certification, the holder of record of the specified stock in place of the stockholder who makes the certification.

**Section 5.06. Lost Stock Certificates.** The Board of Directors of the Corporation may determine the conditions for issuing a new stock certificate in place of one which is alleged to have been lost, stolen, or destroyed, or the Board of Directors may delegate such power to any officer or officers of the Corporation. In their discretion, the Board of Directors or such officer or officers may require the owner of the certificate to give a bond, with sufficient surety, to indemnify the Corporation against any loss or claim arising as a result of the issuance of a new certificate. In their discretion, the Board of Directors or such officer or officers may refuse to issue such new certificate save upon the order of some court having jurisdiction in the premises.

**Section 5.07. Regulations.** The issue, transfer, conversion and registration of certificates of stock shall be governed by such other regulations as the Board of Directors may establish.

## ARTICLE VI

### FINANCE

**Section 6.01. Checks, Drafts, Etc.** All checks, drafts and orders for the payment of money, notes and other evidences of indebtedness, issued in the name of the Corporation, shall, unless otherwise provided by resolution of the Board of Directors, be signed by the Chairman of the Board, the President, a Vice President, an Assistant Vice President, the Treasurer, an Assistant Treasurer, the Secretary or an Assistant Secretary.

**Section 6.02. Annual Statement of Affairs.** The President or chief accounting officer shall prepare annually a full and correct statement of the affairs of the Corporation, to include a balance sheet and a financial statement of operations for the preceding fiscal year. The statement of affairs shall be submitted at the annual meeting of the stockholders and, within 20 days after the meeting, placed on file at the Corporation's principal office.

**Section 6.03. Fiscal Year.** The fiscal year of the Corporation shall be the 12 calendar months ending on December 31 in each year.

**Section 6.04. Dividends.** If declared by the Board of Directors at any meeting thereof, the Corporation may pay dividends on its shares in cash, property, or in shares of the capital stock of the Corporation, unless such dividend is contrary to law or to a restriction contained in the Corporation's Charter.

**Section 6.05. Loans.** No loans shall be contracted on behalf of the Corporation and no evidence of indebtedness shall be issued in its name unless authorized by the Board of Directors. Such authority may be general or confined to specific instances.

**Section 6.06. Deposits.** All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in any of its duly authorized depositories as the Board of Directors may select.

## ARTICLE VII

### MISCELLANEOUS

**Section 7.01. Facsimile Signatures.** In addition to the provisions for use of facsimile signatures elsewhere specifically authorized in these Bylaws, facsimile signatures of any officer or officers of the Corporation may be used whenever and as authorized by the Board of Directors or a committee thereof.

**Section 7.02. Corporate Seal.** The Board of Directors may provide a suitable seal, containing the name of the Corporation, which seal shall be in the charge of the Secretary. If and when so directed by the Board of Directors or a committee thereof, duplicates of the seal may be kept and used by the Treasurer or by an Assistant Secretary or Assistant Treasurer.

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**Section 7.03. Reliance upon Books, Reports and Records.** Each director, each member of any committee designated by the Board of Directors, and each officer and agent of the Corporation shall, in the performance of his or her duties, be fully protected in relying in good faith upon the books of account or other records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of its officers or employees, or committees of the Board of Directors so designated, or by any advisor, accountant, appraiser or other experts or consultants selected by the Board of Directors or officers of the Corporation, regardless of whether such expert or consultant may also be a director.

**Section 7.04. Notices.** Except as otherwise specifically provided in these Bylaws or required by law, all notices required to be given to any stockholder, director, officer, employee or agent shall be in writing and may in every instance be effectively given by hand delivery to the recipient thereof, by depositing such notice in the mail, postage paid, by sending such notice by prepaid telegram or mailgram or by sending such notice by facsimile machine or other electronic transmission. Any such notice shall be addressed to such stockholder, director, officer, employee or agent at his or her last known address as the same appears on the books of the Corporation. The time when such notice is received, if hand delivered or dispatched, if delivered through the mail, by telegram or mailgram or by facsimile machine or other electronic transmission, shall be the time of the giving of the notice.

**Section 7.05. Waivers.** A written waiver of any notice, signed by a stockholder, director, officer, employee or agent, whether before or after the time of the event for which notice is to be given, shall be deemed equivalent to the notice required to be given to such stockholder, director, officer, employee or agent. Neither the business nor the purpose of any meeting need be specified in such a waiver.

**Section 7.06. Time Periods.** In applying any provision of these Bylaws which requires that an act be done or not be done a specified number of days prior to an event or that an act be done during a period of a specified number of days prior to an event, calendar days shall be used, the day of the doing of the act shall be excluded and the day of the event shall be included.

## ARTICLE VIII

### AMENDMENTS

The Bylaws of the Corporation may be adopted, amended or repealed as provided in Article 9 of the Corporation's Charter.

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[End.](#)

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**PACIFIC TRUST BANCORP, INC.  
EMPLOYEE STOCK OWNERSHIP PLAN**

Effective January 1, 2002

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**PACIFIC TRUST BANCORP, INC.  
EMPLOYEE STOCK OWNERSHIP PLAN**

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PACIFIC TRUST BANCORP, INC.  
EMPLOYEE STOCK OWNERSHIP PLAN

PREAMBLE

Effective January 1, 2002, Pacific Trust Bancorp, Inc., a Maryland corporation (the "Sponsor"), adopted the Pacific Trust Bancorp, Inc. Employee Stock Ownership Plan in order to enable Participants to share in the growth and prosperity of the Sponsor and its wholly-owned subsidiary, Pacific Trust Bank, and to provide Participants with an opportunity to accumulate capital for their future economic security by accumulating funds to provide retirement, death and disability benefits. The Plan is a stock bonus plan designed to meet the applicable requirements of Section 409 of the Code and of an employee stock ownership plan, as defined in Section 4975(e)(7) of the Code and Section 407(d)(6) of the Act. The employee stock ownership plan is intended to invest primarily in "qualifying employer securities" as defined in Section 4975(e)(8) of the Code. The Sponsor intends that the Plan will qualify under Sections 401(a) and 501(a) of the Code and will comply with the provisions of the Act.

The rights of any person (including such person's beneficiaries) who terminated employment or who retired on or before any effective date, or the effective date of a particular amendment, shall be determined solely under the terms of this Plan as in effect on the date of his termination of employment or retirement, unless such person is thereafter reemployed and again becomes a participant.

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ARTICLE I  
DEFINITION OF TERMS AND CONSTRUCTION

## 1.1 Definitions.

Unless a different meaning is plainly implied by the context, the following terms as used in this Plan shall have the following meanings:

- (a) "Account" shall mean a Participant's or Former Participant's entire accrued benefit under the Plan, including the balance credited to his Employee Stock Ownership Account and any other account described in Section 5.1.
- (b) "Act" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time, or any successor statute, together with the applicable regulations promulgated thereunder.
- (c) "Administrator" shall mean the fiduciary provided for in Article XI.
- (d) "Annual Additions" shall mean, with respect to each Participant, the sum of those amounts allocated to the Participant's Account under this Plan and accounts under any other qualified defined contribution plan to which the Employer or a Related Employer contributes for any Limitation Year, consisting of the following:
  - (1) Employer contributions;
  - (2) Forfeitures; and
  - (3) Employee contributions (if any).

Annual Additions shall not include any Investment Adjustment. Annual Additions also shall not include employer contributions which are used by the Trust to pay interest on an Exempt Loan nor any forfeitures of Employer Securities purchased with the proceeds of an Exempt Loan, provided that not more than one-third of the employer contributions are allocated to Participants who are among the group of employees deemed "highly compensated employees" within the meaning of Code Section 414(q), as further described in Section 8.3.

(e) "Authorized Leave of Absence" shall mean an absence from Service with respect to which the Employee may or may not be entitled to Compensation and which meets any one of the following requirements:

- (1) Service in any of the armed forces of the United States for up to 36 months, provided that the Employee resumes Service within 90 days after discharge, or such longer period of time during which such Employee's employment rights are protected by law; or
- (2) Any other absence or leave expressly approved and granted by the Employer which does not exceed 24 months, provided that the Employee resumes Service at or before the end of such approved leave period. In approving such leaves of absence, the Employer shall treat all Employees on a uniform and nondiscriminatory basis.

(f) "Beneficiary" shall mean such legal or natural persons, who may be designated contingently or successively, as may be designated by the Participant pursuant to Section 6.5 to receive benefits after the death of the Participant, or in the absence of a valid designation, such persons specified in Section 6.5(b) to receive benefits after the death of the Participant.

(g) "Board of Directors" shall mean the Board of Directors of the Sponsor.

(h) "Break" shall mean a Plan Year during which an Employee fails to complete more than 500 Hours of Service.

(i) "Code" shall mean the Internal Revenue Code of 1986, as amended from time to time, or any successor statute, together with the applicable regulations promulgated thereunder.

(j) "Compensation" shall mean the amount of remuneration paid to an Employee by the Employer for services rendered to the Employer during a Plan Year, after the date on which the Employee becomes a Participant, including base salary, bonuses, commissions, overtime, elective deferrals to a cash or deferred arrangement described in Code Section 401(k), and any amount contributed on a pre-tax salary reduction basis to a plan described in either Section 125 or 132(f)(4) of the Code, but excluding reimbursements or other expense allowances, fringe benefits, moving expenses, deferred compensation welfare benefits, amounts paid by the Employer or accrued with respect to this Plan or any other qualified or non-qualified unfunded plan of deferred compensation or other employee welfare plan to which the Employer contributes, payments for group insurance, medical

benefits, reimbursement for expenses, and other forms of extraordinary pay (including but limited to amounts that vest under a program whose benefits are subject to taxation under Code Section 83, such as a stock option plan or a recognition and retention (or similar) plan). Notwithstanding anything herein to the contrary, the annual Compensation of each Participant taken into account under the Plan for any purpose during any Plan Year shall not exceed \$200,000. The \$200,000 dollar amount shall be adjusted from time to time in accordance with Section 415(d) of the Code.

(k) "Date of Hire" shall mean the date on which an Employee shall perform his first Hour of Service. Notwithstanding the foregoing, in the event that an Employee incurs one or more consecutive Breaks after his initial Date of Hire which results in the forfeiture of his pre-Break Service pursuant to Section 3.3, his "Date of Hire" shall thereafter be the date on which he completes his first Hour of Service after such Break or Breaks.

(l) "Disability" shall mean a physical or mental impairment which prevents a Participant from performing the duties assigned to him by the Employer and which either has caused the Social Security Administration to classify the individual as "disabled" for purposes of Social Security or has been determined by a qualified physician selected by the Administrator.

(m) "Disability Retirement Date" shall mean the first day of the month after which a Participant incurs a Disability.

(n) "Early Retirement Date" shall mean the first day of the month coincident with or next following the later of the date on which a Participant attains age 55 and completes 5 Years of Service.

(o) "Effective Date" shall mean January 1, 2002.

(p) "Eligibility Period" shall mean the period of 12 consecutive months commencing on an Employee's Date of Hire. Succeeding Eligibility Periods after the initial Eligibility Period shall be based on the anniversary date of an Employee's Date of Hire.

(q) "Employee" shall mean any person who is classified as an employee by the Employer or a Related Employer, including officers, but excluding directors in their capacity as such.

(r) "Employee Stock Ownership Account" shall mean the separate bookkeeping account established for each Participant pursuant to Section 5.1(a).

(s) "Employee Stock Ownership Contribution" shall mean the cash, Employer Securities, or both that are contributed to the Plan by the Employer pursuant to Article IV.

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(t) "Employee Stock Ownership Suspense Account" shall mean the temporary account in which the Trustee may maintain any Employee Stock Ownership Contribution that is made prior to the last day of the Plan Year for which it is made, as described in Section 5.2.

(u) "Employer" shall mean Pacific Trust Bancorp, Inc., a Maryland corporation, and its wholly owned subsidiary, Pacific Trust Bank, or any successors to the aforesaid corporations by merger, consolidation or otherwise, which may agree to continue this Plan, or any Related Employer or any other business organization which, with the consent of the Sponsor, shall agree to become a party to this Plan. To the extent required by the Code or the Act, references herein to the Employer shall also include all Related Employers, whether or not they are participating in this Plan.

(v) "Employer Securities" shall mean the common stock issued by Pacific Trust Bancorp, Inc., a Maryland corporation. Such term shall also mean, in the discretion of the Board of Directors, any other common stock issued by the Employer or any Related Employer having voting power and dividend rights equal to or in excess of:

(1) that class of common stock of the Employer or a Related Employer having the greatest voting power, and

(2) that class of common stock of the Employer or a Related Employer having the greatest dividend rights.

Non-callable preferred stock shall be treated as Employer Securities if such stock is convertible at any time into stock which meets the requirements of (1) and (2) next above and if such conversion is at a conversion price which (as of the date of the acquisition by the Plan) is reasonable. For purposes of the last preceding sentence, preferred stock shall be treated as non-callable if, after the call, there will be a reasonable opportunity for a conversion which meets the requirements of the last preceding sentence.

(w) "Entry Date" shall mean each January 1 and July 1.

(x) "Exempt Loan" shall mean a loan described at Section 4975(d)(3) of the Code to the Trustee to purchase Employer Securities for the Plan, made or guaranteed by a disqualified person, as defined at Section 4975(e)(2) of the Code, including, but not limited to, a direct loan of cash, a purchase money transaction, an assumption of an obligation of the Trustee, an unsecured guarantee or the use of assets of such disqualified person as collateral for such a loan.

(y) "Exempt Loan Suspense Account" shall mean the account to which Financed Shares are initially credited until they are released in accordance with Section 8.5.

(z) "Financed Shares" shall mean the Employer Securities acquired by the Trustee with the proceeds of an Exempt Loan and which are credited to the Exempt Loan Suspense Account until they are released in accordance with Section 8.5.

(aa) "Former Participant" shall mean any previous Participant whose participation has terminated but who has a vested Account in the Plan which has not been distributed in full.

(bb) "Fund" shall mean the trust fund maintained by the Trustee pursuant to the Trust Agreement in order to provide for the payment of the benefits specified in the Plan.

(cc) "Hour of Service" shall mean each hour for which an Employee is directly or indirectly paid or entitled to payment by the Employer or a Related Employer for the performance of duties or for reasons other than the performance of duties (such as vacation time, holidays, sickness, disability, paid lay-offs, jury duty and similar periods

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of paid nonworking time). To the extent not otherwise included, Hours of Service shall also include each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer or a Related Employer. Hours of working time shall be credited on the basis of actual hours worked, even though compensated at a premium rate for overtime or other reasons. In computing and crediting Hours of Service for an Employee under this Plan, the rules set forth in Sections 2530.200b-2(b) and (c) of the Department of Labor Regulations shall apply, said sections being herein incorporated by reference. Hours of Service shall be credited to the Plan Year or other relevant period during which the services were performed or the nonworking time occurred, regardless of the time when compensation therefor may be paid. Any Employee for whom no hourly employment records are kept by the Employer or a Related Employer shall be credited with 45 Hours of Service for each calendar week in which he would have been credited with a least one Hour or Service under the foregoing provisions, if hourly records were available. Solely for purposes of determining whether a Break for participation and vesting purposes has occurred in an Eligibility Period or a Plan Year, an individual who is absent from work for maternity or paternity reasons shall receive credit for the Hours of Service which would otherwise have been credited to such individual but for such absence, or in any case in which such hours cannot be determined, 8 Hours of Service per day of such absence. For purposes of Section 1.1(cc), an absence from work for maternity or paternity reasons means an absence (1) by reason of the pregnancy of the individual, (2) by reason of the birth of a child of the individual, (3) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (4) for purposes of caring for such child for a period beginning immediately following such birth or placement. The Hours of Service credited under this provision shall be credited (1) in the computation period in which the absence begins if the crediting is necessary to prevent a Break in that period, or (2) in all other cases, in the following computation period.

(dd) "Investment Adjustments" shall mean the increases and/or decreases in the value of a Participant's Account attributable to earnings, gains, losses and expenses of the Fund, as set forth in Section 5.3.

(ee) "Limitation Year" shall mean the Plan Year.

(ff) "Normal Retirement Date" shall mean the first day of the month coincident with or next following the later of the date on which a Participant attains age 65 and completes the 5<sup>th</sup> anniversary of his participation in the Plan.

(gg) "Participant" shall mean an Employee who has met all of the eligibility requirements of the Plan and who is currently included in the Plan as provided in Article II hereof; provided, however, that the term "Participant" shall not include (1) leased employees (as defined herein), (2) any Employee who is regularly employed outside the Employer's own offices in connection with the operation and maintenance of buildings or other properties acquired through foreclosure or deed, (3) any individual who is employed by a Related Employer that has not adopted the Plan in accordance with Section 1.1(u) hereof, (4) any Employee who is a non-resident alien individual and who has no earned income from sources within the United States, or (5) any Employee who is included in a unit of Employees covered by a collective-bargaining agreement with the Employer or a Related Employer that does not expressly provide for participation of such Employees in the Plan, where there has been good-faith bargaining between the Employer or a Related Employer and Employees' representatives on the subject of retirement benefits. To the extent required by the Code or the Act, or appropriate based on the context, references herein to Participant shall include Former Participant. The term "leased employee" means any person (other than an employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing organization") has performed services for the recipient (or for the

recipient and related persons determined in accordance with Code Section 414(n)(6)) on a substantially full time basis for a period of at least one year, and such services are performed under primary direction or control by the recipient.

(hh) "Plan" shall mean the Pacific Trust Bancorp, Inc. Employee Stock Ownership Plan, as described herein or as hereafter amended from time to time.

(ii) "Plan Year" shall mean any 12 consecutive month period commencing on each January 1 and ending on the next following December 31.

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(jj) "Qualified Domestic Relations Order" shall mean any judgment, decree or order that satisfies the requirements to be a "qualified domestic relations order," as defined in Section 414(p) of the Code.

(kk) "Related Employer" shall mean any entity that is:

(1) a member of a controlled group of corporations that includes the Employer, while it is a member of such controlled group (within the meaning of Section 414(b) of the Code);

(2) a member of a group of trades or businesses under common control with the Employer, while it is under common control (within the meaning of Section 414(c) of the Code);

(3) a member of an affiliated service group that includes the Employer, while it is a member of such affiliated service group (within the meaning of Section 414(m) of the Code); or

(4) a leasing or other organization that is required to be aggregated with the Employer pursuant to the provisions of Section 414(n) or 414(o) of the Code.

(ll) "Retirement" shall mean termination of employment which qualifies as early, normal or Disability retirement as described in Article VI.

(mm) "Service" shall mean, for purposes of eligibility to participate and vesting, employment with the Employer or any Related Employer, and for purposes of allocation of the Employee Stock Ownership Contribution and forfeitures, employment with the Employer.

(nn) "Sponsor" shall mean Pacific Trust Bancorp, Inc., a Maryland corporation.

(oo) "Trust Agreement" shall mean the agreement by and between the Sponsor and the Trustee, as in effect from time to time.

(pp) "Trustee" shall mean the trustee or trustees by whom the assets of the Plan are held, as provided in the Trust Agreement, or his or their successors.

(qq) "Valuation Date" shall mean the last day of each Plan Year. The Trustee may make additional valuations, at the direction of the Administrator, but in no event may the Administrator request additional valuations by the Trustee more frequently than quarterly. Whenever such date falls on a Saturday, Sunday or holiday, the preceding business day shall be the Valuation Date.

(rr) "Year of Eligibility Service" shall mean an Eligibility Period during which an Employee is credited with at least 1,000 Hours of Service, except as otherwise specified in Article III.

(ss) "Year of Vesting Service" shall mean a Plan Year during which an Employee is credited with at least 1,000 Hours of Service, except as otherwise specified in Article III.

## 1.2 Plurals and Gender.

Where appearing in the Plan and the Trust Agreement, the masculine gender shall include the feminine and neuter genders, and the singular shall include the plural, and vice versa, unless the context clearly indicates a different meaning.

## 1.3 Incorporation of Trust Agreement.

The Trust Agreement, as the same may be amended from time to time, is intended to be and hereby is incorporated by reference into this Plan. All contributions made under the Plan will be held, managed and controlled by the Trustee pursuant to the

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#### 1.4 Headings.

The headings and sub-headings in this Plan are inserted for the convenience of reference only and are to be ignored in any construction of the provisions hereof.

#### 1.5 Severability.

In case any provision of this Plan shall be held illegal or void, such illegality or invalidity shall not affect the remaining provisions of this Plan, but shall be fully severable, and the Plan shall be construed and enforced as if said illegal or invalid provisions had never been inserted herein.

#### 1.6 References to Governmental Regulations.

References in this Plan to regulations issued by the Internal Revenue Service, the Department of Labor, or other governmental agencies shall include all regulations, rulings, procedures, releases and other position statements issued by any such agency.

#### 1.7 Notices.

Any notice or document required to be filed with the Administrator or Trustee under the Plan will be properly filed if delivered or mailed by registered mail, postage prepaid, to the Administrator in care of the Sponsor or to the Trustee, each at its principal business offices. Any notice required under the Plan may be waived in writing by the person entitled to notice.

#### 1.8 Evidence.

Evidence required of anyone under the Plan may be by certificate, affidavit, document or other information which the person acting on it considers pertinent and reliable, and signed, made or presented by the proper party or parties.

#### 1.9 Action by Employer.

Any action required or permitted to be taken by any entity constituting the Employer under the Plan shall be by resolution of its Board of Directors or by a person or persons authorized by its Board of Directors.

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## ARTICLE II

### PARTICIPATION

### 2.1 Commencement of Participation.

(a) Any Employee who is otherwise eligible to become a Participant in accordance with Section 1.1(gg) hereof shall initially become a Participant on the Entry Date coincident with or next following the later of the following dates, provided he is employed by the Employer on that Entry Date:

- (1) The date on which he completes a Year of Eligibility Service; and
- (2) The date on which he attains age 21.

(b) Any Employee who had satisfied the requirements set forth in Section 2.1(a) during the 12 consecutive month period prior to the Effective Date shall become a Participant on the Effective Date, provided he is still employed by the Employer on the Effective Date.

### 2.2 Termination of Participation.

After commencement or resumption of his participation, an Employee shall remain a Participant during each consecutive Plan Year thereafter until the earliest of the following dates:

- (a) His actual Retirement date;
- (b) His date of death; or
- (c) The last day of a Plan Year during which he incurs a Break.

### 2.3 Resumption of Participation.

(a) Any Participant whose employment terminates and who resumes Service before he incurs a Break shall resume participation immediately on the date he is reemployed.

(b) Except as otherwise provided in Section 2.3(c), any Participant who incurs one or more Breaks and resumes Service shall resume participation retroactively as of the first day of the first Plan Year in which he completes a Year of Eligibility Service after such Break(s).

(c) Any Participant who incurs one or more Breaks and resumes Service, but whose pre-Break Service is not reinstated to his credit pursuant to Section 3.3, shall be treated as a new Employee and shall again be required to satisfy the eligibility requirements contained in Section 2.1(a) before resuming participation on the appropriate Entry Date, as specified in Section 2.1(a).

### 2.4 Determination of Eligibility.

The Administrator shall determine the eligibility of Employees in accordance with the provisions of this Article. For each Plan Year, the Employer shall furnish the Administrator a list of all Employees, indicating their Date of Hire, their Hours of Service during their Eligibility Period, their date of birth, the original date of their reemployment with the Employer, if any, and any Breaks they may have incurred.

### 2.5 Restricted Participation

Subject to the terms and conditions of the Plan, during the period between the Participant's date of termination of participation in the Plan (as described in Section 2.2) and the distribution of his entire Account (as described in Article IX), and during any period that a Participant does not meet the requirements of Section 2.1(a) or is employed by a Related Employer that is not participating in the Plan, the Participant or, in the event of the Participant's death, the Beneficiary of the Participant, will be considered and treated as a Participant for all purposes of the Plan, except as follows:

- (a) the Participant will not share in the Employee Stock Ownership Contribution and forfeitures (as described in Sections 7.2 and 7.3), except as provided in Sections 5.4 and 5.5; and
- (b) the Beneficiary of a deceased Participant cannot designate a Beneficiary under Section 6.5.

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## ARTICLE III

### CREDITED SERVICE

#### 3.1 Service Counted for Eligibility Purposes.

Except as provided in Section 3.3, all Years of Eligibility Service completed by an Employee shall be counted in determining his eligibility to become a Participant on and after the Effective Date, whether such Service was completed before or after the Effective Date.

#### 3.2 Service Counted for Vesting Purposes.

All Years of Vesting Service completed by an Employee (including Years of Vesting Service completed prior to the Effective Date) shall be counted in determining his vested interest in this Plan, except the following:

- (a) Service which is disregarded under the provisions of Section 3.3;
- (b) Service prior to the Effective Date of this Plan if such Service would have been disregarded under the "break in service" rules (within the meaning of Section 1.411(a)-5(b) of the Treasury Regulations).

#### 3.3 Credit for Pre-Break Service.

Upon his resumption of participation following one or a series of consecutive Breaks, an Employee's pre-Break Service shall be reinstated to his credit for eligibility and vesting purposes only if either:

- (a) He was vested in any portion of his accrued benefit at the time the Break(s) began; or
- (b) The number of his consecutive Breaks does not equal or exceed the greater of 5 or the number of his Years of Eligibility Service or Years of Vesting Service, as the case may be, credited to him before the Breaks began.

Except as provided in the foregoing, none of an Employee's Service prior to one or a series of consecutive Breaks shall be counted for any purpose in connection with his participation in this Plan thereafter.

#### 3.4 Service Credit During Authorized Leaves.

An Employee shall receive no Service credit under Section 3.1 or 3.2 during any Authorized Leave of Absence. However, solely for the purpose of determining whether he has incurred a Break during any Plan Year in which he is absent from Service for one or more Authorized Leaves of Absence, he shall be credited with 45 Hours of Service for each week during any such leave period. Notwithstanding the foregoing, if an Employee fails to return to Service on or before the end of a leave period, he shall be deemed to have terminated Service as of the first day of such leave period and his credit for Hours of Service, determined under this Section 3.4, shall be revoked. Notwithstanding anything contained herein to the contrary, an Employee who is absent by reason of military service as set forth in Section 1.1(e)(1) shall be given Service credit under this Plan for such military leave period to the extent, and for all purposes, required by law.

### 3.5 Service Credit During Maternity or Paternity Leave.

For purposes of determining whether a Break has occurred for participation and vesting purposes, an individual who is on maternity or paternity leave as described in Section 1.1(cc), shall be deemed to have completed Hours of Service during such period of absence, all in accordance with Section 1.1(cc). Notwithstanding the foregoing, no credit shall be given for such Hours of Service unless the individual furnishes to the Administrator such timely information as the Administrator may reasonably require to determine:

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(a) that the absence from Service was attributable to one of the maternity or paternity reasons enumerated in Section 1.1(cc); and

(b) the number of days of such absence.

In no event, however, shall any credit be given for such leave other than for determining whether a Break has occurred.

### 3.6 Ineligible Employees.

Notwithstanding any provisions of this Plan to the contrary, any Employee who is ineligible to participate in this Plan either because of his failure

(a) To meet the eligibility requirements contained in Article II; or

(b) To be a Participant, as defined in Section 1.1(gg),

shall, nevertheless, earn Years of Eligibility Service and Years of Vesting Service pursuant to the rules contained in this Article III. However, such Employee shall not be entitled to an allocation of any contributions or forfeitures hereunder unless and until he becomes a Participant in this Plan, and then, only during his period of participation.

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## ARTICLE IV

### CONTRIBUTIONS

#### 4.1 Employee Stock Ownership Contribution.

(a) Subject to all of the provisions of this Article IV, for each Plan Year commencing on or after the Effective Date, the Employer shall make an Employee Stock Ownership Contribution to the Fund in such amount as may be determined by resolution of the Board of Directors in its discretion; provided, however, that the Employer shall contribute an amount in cash not less than the amount required to enable the Trustee to discharge any indebtedness incurred with respect to an Exempt Loan in

accordance with Section 8.6(c). If any part of the Employee Stock Ownership Contribution under this Section 4.1 for any Plan Year is in cash in an amount exceeding the amount needed to pay the amount due during or prior to such Plan Year with respect to an Exempt Loan, such cash shall be applied by the Trustee, as directed by the Administrator in its sole discretion, either to the purchase of Employer Securities or to repay an Exempt Loan. Contributions hereunder shall be in the form of cash, Employer Securities or any combination thereof. In determining the value of Employer Securities transferred to the Fund as an Employee Stock Ownership Contribution, the Administrator may determine the average of closing prices of such securities for a period of up to 90 consecutive days immediately preceding the date on which the securities are contributed to the Fund. In the event that the Employer Securities are not readily tradable on an established securities market, the value of the Employer Securities transferred to the Fund shall be determined by an independent appraiser in accordance with Section 8.9.

(b) In no event shall the Employee Stock Ownership Contribution exceed for any Plan Year the maximum amount that may be deducted by the Employer under Section 404 of the Code, nor shall such contribution cause the Employer to violate its regulatory capital requirements. Each Employee Stock Ownership Contribution by the Employer shall be deemed to be made on the express condition that the Plan, as then in effect, shall be qualified under Sections 401(a) and 501(a) of the Code and that the amount of such contribution shall be deductible from the Employer's income under Section 404 of the Code.

#### 4.2 Time and Manner of Employee Stock Ownership Contribution.

(a) The Employee Stock Ownership Contribution (if any) for each Plan Year shall be paid to the Trustee in one lump sum or installments at any time on or before the expiration of the time prescribed by law (including any extensions) for filing of the Employer's federal income tax return for its fiscal year ending concurrent with or during such Plan Year; provided, however, that the Employee Stock Ownership Contribution (if any) for a Plan Year shall be made in a timely manner to make any required payment of principal and/or interest on an Exempt Loan for such Plan Year. Any portion of the Employee Stock Ownership Contribution for each Plan Year that may be made prior to the last day of the Plan Year shall, if there is an Exempt Loan outstanding at such time, at the election of the Administrator, either (i) be applied immediately to make payments on such Exempt Loan or (ii) be applied in Section 5.2 until the last day of such Plan Year.

(b) If an Employee Stock Ownership Contribution for a Plan Year is paid after the close of the Employer's fiscal year which ends concurrent with or during such Plan Year but on or prior to the due date (including any extensions) for filing of the Employer's federal income tax return for such fiscal year, it shall be considered, for allocation purposes, as an Employee Stock Ownership Contribution to the Fund for the Plan Year for which it was computed and accrued, unless such contribution is accompanied by a statement to the Trustee, signed by the Employer, which specifies that the Employee Stock Ownership Contribution is made with respect to the Plan Year in which it is received by the Trustee. Any Employee Stock Ownership Contribution paid by the Employer during any Plan Year but after the due date (including any extensions) for filing of its federal income tax return for the fiscal year of the Employer ending on or before the last day of the preceding Plan Year shall be treated, for allocation purposes, as an Employee Stock Ownership Contribution to the Fund for the Plan Year in which the contribution is paid to the Trustee.

(c) Notwithstanding anything contained herein to the contrary, no Employee Stock Ownership Contribution shall be made for any Plan Year during which a limitations account created pursuant to Section 5.6(c)(3) is in existence until the balance of such limitations account has been reallocated in accordance with Section 5.6(c)(3).

#### 4.3 Records of Contributions.

The Employer shall deliver at least annually to the Trustee, with respect to the Employee Stock Ownership Contribution contemplated in Section 4.1, a certificate of the Administrator, in such form as the Trustee shall approve, setting forth:

- (a) The aggregate amount of such contribution, if any, to the Fund for such Plan Year;
- (b) The names, Internal Revenue Service identifying numbers and current residential addresses of all Participants in the Plan;
- (c) The amount and category of contributions to be allocated to each such Participant; and
- (d) Any other information reasonably required for the proper operation of the Plan.

#### 4.4 Erroneous Contributions.

(a) Notwithstanding anything herein to the contrary, upon the Employer's written request, a contribution which was made by a mistake of fact, or conditioned upon the initial qualification of the Plan, under Code Section 401(a), or upon the deductibility of the contribution under Section 404 of the Code, shall be returned to the Employer by the Trustee within one year

after the payment of the contribution, the denial of the qualification or the disallowance of the deduction (to the extent disallowed), whichever is applicable; provided, however, that in the case of denial of the initial qualification of the Plan, a contribution shall not be returned unless an Application for Determination has been timely filed with the Internal Revenue Service. Any portion of a contribution returned pursuant to this Section 4.4 shall be adjusted to reflect its proportionate share of the losses of the Fund, but shall not be adjusted to reflect any earnings or gains. Notwithstanding any provisions of this Plan to the contrary, the right or claim of any Participant or Beneficiary to any asset of the Fund or any benefit under this Plan shall be subject to and limited by this Section 4.4.

(b) In no event shall Employee contributions be accepted. Any such Employee contributions (and any earnings attributable thereto) mistakenly received by the Trustee shall promptly be returned to the Participant.

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## ARTICLE V

### ACCOUNTS, ALLOCATIONS AND INVESTMENTS

#### 5.1 Establishment of Separate Participant Accounts.

The Administrator shall establish and maintain a separate Account for each Participant in the Plan and for each Former Participant in accordance with the provisions of this Article V. Such separate Account shall be for bookkeeping purposes only and shall not require a segregation of the Fund, and no Participant, Former Participant or Beneficiary shall acquire any right to or interest in any specific assets of the Fund as a result of the allocations provided for under this Plan.

##### (a) Employee Stock Ownership Accounts.

The Administrator shall establish a separate Employee Stock Ownership Account in the Fund for each Participant. The Administrator may establish subaccounts hereunder, an Employer Stock Account reflecting a Participant's interest in Employer Securities held by the Trust, and an Other Investments Account reflecting the Participant's interest in his Employee Stock Ownership Account other than Employer Securities. Each Participant's Employer Stock Account shall reflect his share of any Employee Stock Ownership Contribution made in Employer Securities, his allocable share of forfeitures (as described in Section 5.4), and any Employer Securities attributable to earnings on such stock. Each Participant's Other Investments Account shall reflect any Employee Stock Ownership Contribution made in cash, any cash dividends on Employer Securities allocated and credited to his Employee Stock Ownership Account (other than currently distributable dividends) and his share of corresponding cash forfeitures, and any income, gains, losses, appreciation, or depreciation attributable thereto.

##### (b) Distribution Accounts.

In any case where distribution of a terminated Participant's vested Account is to be deferred, the Administrator may establish a separate, nonforfeitable account in the Fund to which the balance in his Employee Stock Ownership Account in the Plan shall be transferred after such Participant incurs a Break. Unless the Former Participant's distribution accounts are segregated for investment purposes pursuant to Article IX, they shall share in Investment Adjustments.

##### (c) Other Accounts.

The Administrator shall establish such other separate accounts for each Participant as may be necessary or desirable for the convenient administration of the Fund.

#### 5.2 Establishment of Suspense Accounts.

The Administrator shall establish a separate Employee Stock Ownership Suspense Account. There shall be credited to such account any Employee Stock Ownership Contribution that may be made prior to the last day of the Plan Year and that are allocable to the Employee Stock Ownership Suspense Account pursuant to Section 4.2(a). The Employee Stock Ownership Suspense Account shall share proportionately as to time and amount in any Investment Adjustments. As of the last day of each Plan Year, the balance of the Employee Stock Ownership Suspense Account shall be added to the Employee Stock Ownership Contribution and allocated to the Employee Stock Ownership Accounts of Participants as provided in Section 5.5, except as provided herein. In the event that the Plan takes an Exempt Loan, the Employer Securities purchased thereby shall be allocated as Financed Shares to a separate Exempt Loan Suspense Account, from which Employer Securities shall be released in accordance with Section 8.5 and shall be allocated in accordance with Section 8.6(b).

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### 5.3 Allocation of Earnings, Losses and Expenses.

As of each Valuation Date, any increase or decrease in the net worth of the aggregate Employee Stock Ownership Accounts held in the Fund attributable to earnings, losses, expenses and unrealized appreciation or depreciation in each such aggregate account, as determined by the Trustee pursuant to the Trust Agreement, shall be credited to or deducted from the appropriate suspense accounts and all Participants' Employee Stock Ownership Accounts (except segregated distribution accounts described in Section 5.1(b) and the "limitations account" described in Section 5.6(c)(3)) in the proportion that the value of each such account (determined immediately prior to such allocation and before crediting any Employee Stock Ownership Contribution and forfeitures for the current Plan Year but after adjustment for any transfer to or from such accounts and for the time such funds were in such accounts) bears to the value of all Employee Stock Ownership Accounts.

### 5.4 Allocation of Forfeitures.

As of the last day of each Plan Year, all forfeitures attributable to the Employee Stock Ownership Accounts which are then available for reallocation shall be, as appropriate, added to the Employee Stock Ownership Contribution (if any) for such year and allocated among the Participants' Employee Stock Ownership Accounts, as appropriate, in the manner provided in Sections 5.5 and 5.6.

### 5.5 Allocation of Employee Stock Ownership Contribution.

As of the last day of each Plan Year for which the Employer shall make an Employee Stock Ownership Contribution, the Administrator shall allocate the Employee Stock Ownership Contribution (including reallocable forfeitures) for such Plan Year to the Employee Stock Ownership Account of each Participant who completed a Year of Vesting Service during that Plan Year, provided that he is still employed by the Employer on the last day of the Plan Year. Such allocation shall be made in the same proportion that each such Participant's Compensation for such Plan Year bears to the total Compensation of all such Participants for such Plan Year, subject to Section 5.6. Notwithstanding the foregoing, if a Participant attains his Normal Retirement Date and terminates Service prior to the last day of the Plan Year but after completing a Year of Vesting Service, he shall be entitled to an allocation based on his Compensation earned prior to his termination and during the Plan Year. Furthermore, if a Participant completes a Year of Vesting Service and is on a Leave of Absence on the last day of the Plan Year because of pregnancy or other medical reason, such a Participant shall be entitled to an allocation based on his Compensation earned during such Plan Year.

### 5.6 Limitation on Annual Additions.

(a) Notwithstanding any provisions of this Plan to the contrary, the total Annual Additions credited to a Participant's Account under this Plan (and accounts under any other defined contribution plan maintained by the Employer or a Related Employer) for any Limitation Year shall not exceed the lesser of:

(1) \$40,000, as adjusted for increases in the cost-of-living under section 415(d) of the Code, or

(2) 100 percent of the Participant's Compensation, within the meaning of this Section 5.6, for the Limitation Year. The Compensation limit referred to in (2) shall not apply to any contribution for medical benefits after separation from service (within the meaning of section 401(h) or section 419(f)(2) of the Code) which is otherwise treated as an Annual Addition.

(b) Solely for the purpose of this Section 5.6, the term "compensation" is defined as wages, salaries, fees for professional services, pre-tax elective deferrals and salary reduction contributions under a plan described in Section 401(k), 125, 132(f)(4) and 457 of the Code, and other amounts received (without regard to whether or not an

amount is paid in cash)p; for personal services actually rendered in the course of employment with the Employer or a Related Employer, to the extent that the amounts are includable in gross income (including, but not limited to, commissions paid to salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements or other expense allowances under a nonaccountable plan (as described in Treas. Regs. Section 1.62-2(c)), and excluding the following:

(1) Employer contributions by the Employer or a Related Employer to a plan of deferred compensation (other than elective deferrals as described above) which are not includable in the Employee's gross income for the taxable year in which contributed, or employer contributions by the Employer or a Related Employer under a simplified employee pension plan to the extent such contributions are deductible by the Employee, or any distributions from a plan of deferred compensation;

(2) Amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by the Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;

(3) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and

(4) Other amounts which received special tax benefits or contributions made by the employer (whether or not under a salary reduction agreement) towards the purchase of an annuity contract described in section 403(b) of the Code (whether or not the contributions are actually excludable from the gross income of the Employee).

(c) In the event that the limitations on Annual Additions described in Section 5.6(a) above are exceeded with respect to any Participant in any Limitation Year, then the contributions allocable to the Participant for such Limitation Year shall be reduced to the minimum extent required by such limitations, in the following order of priority:

(1) The Administrator shall determine to what extent the Annual Additions to any Participant's Employee Stock Ownership Account must be reduced in each Limitation Year. The Administrator shall reduce the Annual Additions to all other qualified, tax-exempt retirement plans maintained by the Employer or a Related Employer in accordance with the terms contained therein for required reductions or reallocations mandated by Section 415 of the Code before reducing any Annual Additions in this Plan.

(2) If any further reductions in Annual Additions are necessary, then the Employee Stock Ownership Contribution and forfeitures allocated during such Limitation Year to the Participant's Employee Stock Ownership Account shall be reduced. The amount of any such reductions in the Employee Stock Ownership Contribution and forfeitures shall be reallocated to all other Participants in the same manner as set forth under Sections 5.4 and 5.5.

(3) Any amounts which cannot be reallocated to other Participants in a current Limitation Year in accordance with Section 5.6(c)(2) above because of the limitations contained in Sections 5.6(a) and (d) shall be credited to an account designated as the "limitations account" and carried forward to the next and subsequent Limitation Years until it can be reallocated to all Participants as set forth in Sections 5.4 and 5.5, as appropriate. No Investment Adjustments shall be allocated to this limitations account. In the next and subsequent Limitation Years, all amounts in the limitations account must be allocated in the manner described in Sections 5.4 and 5.5, as appropriate, before any Employee Stock Ownership Contribution may be made to this Plan for that Limitation Year.

(4) In the event this Plan is voluntarily terminated by the Employer under Section 13.5, any amounts credited to the limitations account described in Section 5.6(c)(3) above which have not been reallocated as set forth herein shall be distributed to the Participants who are still employed by the Employer on the date of termination, in the proportion that each Participant's Compensation bears to the Compensation of all Participants.

#### 5.7 Erroneous Allocations.

No Participant shall be entitled to any Annual Additions or other allocations to his Account in excess of those permitted under Sections 5.3, 5.4, 5.5, and 5.6. If it is determined at any time that the Administrator and/or Trustee have erred in accepting and allocating any contributions or forfeitures under this Plan, or in allocating Investment Adjustments, or in excluding or including any person as a Participant, then the Administrator, in a uniform and nondiscriminatory manner, shall determine the manner in which such error shall be corrected and shall promptly advise the Trustee in writing of such error and of the method for correcting such error. The accounts of any or all Participants may be revised, if necessary, in order to correct such error. To the

extent applicable, such correction shall be made in accordance with the provisions of IRS Revenue Procedure 2001-17 (or any amendment or successor thereto).

#### 5.8 Value of Participant's Account.

At any time, the value of a Participant's Account shall consist of the aggregate value of his Employee Stock Ownership Account and his distribution account, if any, determined as of the next-preceding Valuation Date. The Administrator shall maintain adequate records of the cost basis of Employer Securities allocated to each Participant's Employee Stock Ownership Account.

#### 5.9 Investment of Account Balances.

The Employee Stock Ownership Accounts shall be invested primarily in Employer Securities. All sales of Employer Securities by the Trustee attributable to the Employee Stock Ownership Accounts of all Participants shall be charged pro rata to the Employee Stock Ownership Accounts of all Participants.

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### ARTICLE VI RETIREMENT, DEATH AND DESIGNATION OF BENEFICIARY

#### 6.1 Normal Retirement.

A Participant who reaches his Normal Retirement Date and who shall retire at that time shall thereupon be entitled to retirement benefits based on the value of his Account, payable pursuant to the provisions of Section 9.1. A Participant who remains in Service after his Normal Retirement Date shall not be entitled to any retirement benefits until his actual termination of Service thereafter (except as provided in Section 9.4), and he shall meanwhile continue to participate in this Plan.

#### 6.2 Early Retirement.

A Participant who reaches his Early Retirement Date may retire at such time (or, at his election, as of the first day of any month thereafter prior to his Normal Retirement Date) and shall thereupon be entitled to retirement benefits based on the vested value of his Account, payable pursuant to the provisions of Section 9.1.

#### 6.3 Disability Retirement.

In the event a Participant incurs a Disability, he may retire on his Disability Retirement Date and shall thereupon be entitled to retirement benefits based on the value of his Account, payable pursuant to the provisions of Section 9.1.

#### 6.4 Death Benefits.

(a) Upon the death of a Participant before his Retirement or other termination of Service, the value of his Account shall be payable pursuant to the provisions of Section 9.1. The Administrator shall direct the Trustee to distribute his Account to any surviving Beneficiary designated by the Participant or, if none, to such persons specified in Section 6.5(b).

(b) Upon the death of a Former Participant, the Administrator shall direct the Trustee to distribute any undistributed balance of his Account to any surviving Beneficiary designated by him or, if none, to such persons specified in Section 6.5(b).

(c) The Administrator may require such proper proof of death and such evidence of the right of any person to receive the balance credited to the Account of a deceased Participant or Former Participant as the Administrator may deem desirable. The Administrator's determination of death and of the right of any person to receive payment shall be conclusive.

#### 6.5 Designation of Beneficiary and Manner of Payment.

(a) Each Participant shall have the right to designate a Beneficiary to receive the sum or sums to which he may be entitled upon his death. The Participant may also designate the manner in which any death benefits under this Plan shall be payable to his Beneficiary, provided that such designation is in accordance with Section 9.5. Such designation of Beneficiary and manner of payment shall be in writing and delivered to the Administrator, and shall be effective when received by the Administrator while the Participant is alive. The Participant shall have the right to change such designation by notice in writing to the Administrator while the Participant is alive. Such change of Beneficiary or the manner of payment shall become effective upon its receipt by the Administrator while the Participant is alive. Any such change shall be deemed to revoke all prior designations.

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(b) If a Participant shall fail to designate validly a Beneficiary, or if no designated Beneficiary survives the Participant, the balance credited to his Account shall be paid to the person or persons in the first of the following classes of successive preference Beneficiaries surviving at the death of the Participant: the Participant's (1) widow or widower, (2) natural-born or adopted children, (3) natural-born or adoptive parents, and (4) estate. The Administrator shall determine which Beneficiary, if any, shall have been validly designated or entitled to receive the balance credited to the Participant's Account in accordance with the foregoing order of preference, and its decision shall be binding and conclusive on all persons.

(c) Notwithstanding the foregoing, if a Participant is married on the date of his death, the sum or sums to which he may be entitled under this Plan upon his death shall be paid to his spouse, unless the Participant's spouse shall have consented to the election of another Beneficiary. Such a spousal consent shall be in writing and shall be witnessed either by a representative of the Administrator or by a notary public. Any designation by an unmarried Participant shall be rendered ineffective by any subsequent marriage, and any consent of a spouse shall be effective only as to that spouse. If it is established to the satisfaction of the Administrator that spousal consent cannot be obtained because there is no spouse, because the spouse cannot be located, or other reasons prescribed by governmental regulations, the consent of the spouse may be waived, and the Participant may designate a Beneficiary or Beneficiaries other than his spouse.

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## ARTICLE VII

### VESTING AND FORFEITURES

#### 7.1 Vesting on Death, Disability and Normal Retirement.

Unless his participation in this Plan shall have terminated prior thereto, upon a Participant's death, Disability or Normal Retirement Date (whether or not he actually retires at that time) while he is still employed by the Employer, the Participant's entire Account shall be fully vested and nonforfeitable.

#### 7.2 Vesting on Termination of Participation.

Upon termination of his participation in this Plan for any reason other than death, Disability, or Normal Retirement, a Participant shall be vested in a percentage of his Employee Stock Ownership Account, such vested percentage to be determined under the following table, based on the Years of Vesting Service (including Years of Vesting Service prior to the Effective Date) credited to him at the time of his termination of participation:

| <u>Years of Vesting Service</u> | <u>Percentage Vested</u> |
|---------------------------------|--------------------------|
| Less than 5                     | 0%                       |
| 5 or more                       | 100%                     |

Notwithstanding the foregoing, a Participant shall all times have a nonforfeitable interest in Employer Securities acquired with dividends pursuant to Section 8.4(c).

Any portion of the Participant's Employee Stock Ownership Account which is not vested at the time he incurs a Break shall thereupon be forfeited and disposed of pursuant to Section 7.3. In such event, Employer Securities shall be forfeited only after other assets. Distribution of the vested portion of a terminated Participant's interest in the Plan shall be payable in any manner permitted under Section 9.1.

### 7.3 Disposition of Forfeitures.

(a) In the event a Participant incurs a Break and subsequently resumes both his Service and his participation in the Plan prior to incurring at least 5 Breaks, the forfeitable portion of his Employee Stock Ownership Account shall be reinstated to the credit of the Participant as of the date he resumes participation.

(b) In the event a Participant terminates Service and subsequently incurs a Break and receives a distribution, or in the event a Participant does not terminate Service, but incurs at least 5 Breaks, or in the event that a Participant terminates Service and incurs at least 5 Breaks but has not received a distribution, then the forfeitable portion of his Employee Stock Ownership Account, including Investment Adjustments, shall be reallocated to other Participants, pursuant to Section 5.4, as of the date the Participant incurs such Break or Breaks, as the case may be.

(c) In the event a former Participant who had received a distribution from the Plan is rehired, he shall repay the amount of his distribution before the earlier of 5 years after the date of his rehire by the Employer, or the close of the first period of 5 consecutive Breaks commencing after the withdrawal, in order for any forfeited amounts to be restored to him.

## ARTICLE VIII

### EMPLOYEE STOCK OWNERSHIP PROVISIONS

#### 8.1 Right to Demand Employer Securities.

A Participant entitled to a distribution from his Account shall be entitled to demand that his interest in the Account be distributed to him in the form of Employer Securities, all subject to Section 9.9. The Administrator shall notify the Participant of his right to demand distribution of his vested Account balance entirely in whole shares of Employer Securities (with the value of any fractional share paid in cash). However, if the charter or by-laws of the Employer restrict ownership of substantially all of the outstanding Employer Securities to Employees and the Trust, then the distribution of a Participant's vested Account shall be made entirely in the form of cash or other property, and the Participant is not entitled to a distribution in the form of Employer Securities.

#### 8.2 Voting Rights.

Each Participant with an Employee Stock Ownership Account shall be entitled to direct the Trustee as to the manner in which the Employer Securities in such account are to be voted. Employer Securities held in the Employee Stock Ownership Suspense Account or the Exempt Loan Suspense Account shall be voted by the Trustee on each issue with respect to which shareholders are entitled to vote in the same proportion as the Participants who directed the Trustee as to the manner of voting their shares in the Employee Stock Ownership Accounts with respect to such issue (that is, affirmatively, negatively or with an abstention). In the event that a Participant fails to give timely voting instructions to the Trustee with respect to the voting of Employer Securities that are allocated to his Employee Stock Ownership Account, the Trustee shall vote such shares in its discretion.

### 8.3 Nondiscrimination in Employee Stock Ownership Contribution.

In the event that the amount of the Employee Stock Ownership Contribution that would be required in any Plan Year to make the scheduled payments on an Exempt Loan would exceed the amount that would otherwise be deductible by the Employer for such Plan Year under Code Section 404, then no more than one-third of the Employee Stock Ownership Contribution for the Plan Year, which is also the Employer's taxable year, shall be allocated to the group of Employees who:

- (a) Was at any time during the Plan Year or the preceding Plan Year a 5 percent owner of the Employer; or
- (b) Received compensation (within the meaning of Section 415(c)(3); of the Code) from the Employer for the preceding Plan Year in excess of \$80,000, as adjusted under Code Section 414(q), and was in the "top-paid group" of Employees (as defined below) for such year.

An Employee shall be deemed a member of the "top-paid group" of Employees for a given Plan Year if such Employee is in the group of the top 20% of the Employees of the Employer when ranked on the basis of compensation (as defined above). A former Employee shall be included in the group of Employees described above if either:

- (c) Such former Employee was included in such group when such Employee separated from Service, or
- (d) Such former Employee was included in such group at any time after attaining age 55.

The determination of who is included in the group of Employees described above, including the determination of the number and identity of Employees in the "top-paid group," will be made in accordance with Section 414(q) of the Code and the regulations thereunder.

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Amounts not allocable on account of this Section 8.4 shall be allocated among the Accounts of Participants who are not highly compensated employees, as defined herein, in accordance with Sections 5.5 and 5.6.

### 8.4 Dividends.

(a) Dividends paid with respect to Employer Securities credited to a Participant's Employee Stock Ownership Account as of the record date for the dividend payment may be allocated to the Participant's Employee Stock Ownership Account, paid in cash to the Participant, or used by the Trustee to make payments on an Exempt Loan, pursuant to the direction of the Administrator.

(b) If the Administrator shall direct that the aforesaid dividends shall be paid directly to Participants, the dividends paid with respect to such Employer Securities shall be paid to the Plan, from which dividend distributions in cash shall be made to the Participants with respect to the Employer Securities in their Employee Stock Ownership Accounts within 90 days of the close of the Plan Year in which the dividends were paid.

(c) If the Administrator permits, then Participants shall be able to elect, in accordance with regulations or other guidance, to have the dividends paid and allocable to the Participant's Account either (i) distributed to the Participant (or his Beneficiary) no later than 90 days after close of the Plan Year in which the dividend is paid (reduced by any investment losses occurring from when the dividend is paid to the Plan to when it is distributed to the Participant), or (ii) retained in the Participant's Account under the Plan to be invested in Employer Securities.

(d) If dividends on Employer Securities already allocated to Participants' Employee Stock Ownership Accounts are used to make payments on an Exempt Loan, the Employer Securities which are released from the Exempt Loan Suspense Account shall first be allocated to each Employee Stock Ownership Account in an amount equal to the amount of dividends that would have been allocated to such Account if the dividends had not been used to make payments on an Exempt Loan, and the remaining Employer Securities (if any) which are released shall be allocated in the proportion that the value of each Employee Stock Ownership Account bears to the value of all such Accounts, all in accordance with Section 404(k) of the Code.

(e) Dividends on Employer Securities obtained pursuant to an Exempt Loan and still held in the Exempt Loan Suspense Account may be used to make payments on an Exempt Loan, as described in Section 8.6.

### 8.5 Exempt Loans.

(a) The Sponsor may direct the Trustee to obtain Exempt Loans. The Exempt Loan may take the form of (i) a loan from a bank or other commercial lender to purchase Employer Securities (ii) a loan from the Employer to the Plan; or (iii) an installment sale of Employer Securities to the Plan. The proceeds of any such Exempt Loan shall be used, within a reasonable time

after the Exempt Loan is obtained, only to purchase Employer Securities, repay the Exempt Loan, or repay any prior Exempt Loan. Any such Exempt Loan shall provide for no more than a reasonable rate of interest and shall be without recourse against the Plan. The number of years to maturity under the Exempt Loan must be definitely ascertainable at all times. The only assets of the Plan that may be given as collateral for an Exempt Loan are Financed Shares acquired with the proceeds of the Exempt Loan and Financed Shares that were used as collateral for a prior Exempt Loan repaid with the proceeds of the current Exempt Loan. Such Financed Shares so pledged shall be placed in an Exempt Loan Suspense Account. No person or institution entitled to payment under an Exempt Loan shall have recourse against Trust assets other than the

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Financed Shares, the Employer Stock Ownership Contribution (other than contributions of Employer Securities) that is available under the Plan to meet obligations under the Exempt Loan, and earnings attributable to such Financed Shares and the investment of such contribution. Any Employee Stock Ownership Contribution paid during the Plan Year in which an Exempt Loan is made (whether before or after the date the proceeds of the Exempt Loan are received), any Employee Stock Ownership Contribution paid thereafter until the Exempt Loan has been repaid in full, and all earnings from investment of such Employee Stock Ownership Contribution, without regard to whether any such Employee Stock Ownership Contribution and earnings have been allocated to Participants' Employee Stock Ownership Accounts, shall be available to meet obligations under the Exempt Loan as such obligations accrue, or prior to the time such obligations accrue, unless otherwise provided by the Employer at the time any such contribution is made. Any pledge of Employer Securities shall provide for the release of Financed Shares upon the payment of any portion of the Exempt Loan.

(b) For each Plan Year during the duration of the Exempt Loan, the number of Financed Shares released from such pledge shall equal the number of Financed Shares held immediately before release for the current Plan Year multiplied by a fraction. The numerator of the fraction is the sum of principal and interest paid in such Plan Year. The denominator of the fraction is the sum of the numerator plus the principal and interest to be paid for all future years. Such years will be determined without taking into account any possible extension or renewal periods. If interest on any Exempt Loan is variable, the interest to be paid in future years under the Exempt Loan shall be computed by using the interest rate applicable as of the end of the Plan Year.

(c) Notwithstanding the foregoing, the Trustee may, in accordance with the direction of the Administrator, obtain an Exempt Loan pursuant to the terms of which the number of Financed Shares to be released from encumbrance shall be determined with reference to principal payments only. In the event that such an Exempt Loan is obtained, annual payments of principal and interest shall be at a cumulative rate that is not less rapid at any time than level payments of such amounts for not more than 10 years. The amount of interest in any such annual loan repayment shall be disregarded only to the extent that it would be determined to be interest under standard loan amortization tables. The requirement set forth in the preceding sentence shall not be applicable from the time that, by reason of a renewal, extension, or refinancing, the sum of the expired duration of the Exempt Loan, the renewal period, the extension period, and the duration of a new Exempt Loan exceeds 10 years.

#### 8.6 Exempt Loan Payments.

(a) Payments of principal and interest on any Exempt Loan during a Plan Year shall be made by the Trustee (as directed by the Administrator) only from (1) the Employee Stock Ownership Contribution to the Trust made to meet the Plan's obligation under an Exempt Loan (other than contributions of Employer Securities) and from any earnings attributable to Financed Shares and investments of such contributions (both received during or prior to the Plan Year); (2) the proceeds of a subsequent Exempt Loan made to repay a prior Exempt Loan; and (3) the proceeds of the sale of any Financed Shares. Such contribution and earnings shall be accounted for separately by the Plan until the Exempt Loan is repaid.

(b) Employer Securities released from the Exempt Loan Suspense Account by reason of the payment of principal or interest on an Exempt Loan from amounts allocated to Participants' Employee Stock Ownership Accounts shall immediately upon release be allocated as set forth in Section 5.5.

(c) The Employer shall contribute to the Trust sufficient amounts to enable the Trust to pay principal and interest on any such Exempt Loans as they are due, provided, however, that no such contribution shall exceed the limitations in Section 5.6. In the event that such contributions by reason of the limitations in Section 5.6 are insufficient to enable the Trust to pay principal and interest on such Exempt Loan as it is due, then upon the Administrator's direction the Employer shall:

(1) Make an Exempt Loan to the Trust in sufficient amounts to meet such principal and interest payments. Such new Exempt Loan shall be subordinated to the prior Exempt Loan. Employer

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Securities released from the pledge of the prior Exempt Loan shall be pledged as collateral to secure the new Exempt Loan. Such Employer Securities will be released from this new pledge and allocated to the Employee Stock Ownership Accounts of the

Participants in accordance with the applicable provisions of the Plan;

(2) Purchase any Financed Shares in an amount necessary to provide the Trustee with sufficient funds to meet the principal and interest repayments. Any such sale by the Plan shall meet the requirements of Section 408(e) of the Act; or

(3) Any combination of the foregoing.

However, the Employer shall not, pursuant to the provisions of this subsection, do, fail to do or cause to be done any act or thing which would result in a disqualification of the Plan as an employee stock ownership plan under Section 4975(e)(7) of the Code.

(d) Except as provided in Section 8.1 above and notwithstanding any amendment to or termination of the Plan which causes it to cease to qualify as an employee stock ownership plan within the meaning of Section 4975(e)(7) of the Code, or any repayment of an Exempt Loan, no shares of Employer Securities acquired with the proceeds of an Exempt Loan obtained by the Trust to purchase Employer Securities may be subject to a put, call or other option, or buy-sell or similar arrangement, while such shares are held by the Plan or when such shares are distributed from the Plan. The provisions of this Section 8.6(d) shall continue to be applicable to Employer Securities held by the Trustee, whether or not allocated to Participants' and Former Participants' Accounts, even if the Plan ceases to be an employee stock ownership plan, as defined in Section 4975(e)(7) of the Code.

#### 8.7 Put Option.

In the event that the Employer Securities distributed to a Participant are not readily tradable on an established market, the Participant shall be entitled to require that the Employer repurchase the Employer Securities under a fair valuation formula, as provided by governmental regulations. The Participant or Beneficiary shall be entitled to exercise the put option described in the preceding sentence for a period of not more than 60 days following the date of distribution of Employer Securities to him. If the put option is not exercised within such 60-day period, the Participant or Beneficiary may exercise the put option during an additional period of not more than 60 days after the beginning of the first day of the first Plan Year following the Plan Year in which the first put option period occurred, all as provided in regulations promulgated by the Secretary of the Treasury.

If a Participant exercises the foregoing put option with respect to Employer Securities that were distributed as part of a total distribution pursuant to which a Participant's Employee Stock Ownership Account is distributed to him in a single taxable year, the Employer or the Plan may elect to pay the purchase price of the Employer Securities over a period not to exceed 5 years. Such payments shall be made in substantially equal installments not less frequently than annually over a period beginning not later than 30 days after the exercise of the put option. Reasonable interest shall be paid to the Participant with respect to the unpaid balance of the purchase price, and adequate security shall be provided with respect thereto. In the event that a Participant exercises a put option with respect to Employer Securities that are distributed as part of an installment distribution, if permissible under Section 9.5, the amount to be paid for such securities shall be paid not later than 30 days after the exercise of the put option.

#### 8.8 Diversification Requirements.

Each Participant who has completed at least 10 years of participation in the Plan and has attained age 55 may elect within 90 days after the close of each Plan Year during his "qualified election period" to direct the Plan as to the investment of at least 25 percent of his Employee Stock Ownership Account (to the extent such percentage exceeds the amount to which a prior election under this Section 8.8 had been made). For purposes of this Section

8.8, the term "qualified election period" shall mean the 5-Plan-Year period beginning with the Plan Year after the Plan Year in which the Participant attains age 55 (or, if later, beginning with the Plan Year after the first Plan Year in which the Employee first completes at least 10 years of participation in the Plan). In the case of an Employee who has attained age 60 and completed 10 years of participation in the prior Plan Year and in the case of the election year in which any other Participant who has met the minimum age and service requirements for diversification can make his last election hereunder, he shall be entitled to direct the Plan as to the investment of at least 50 percent of his Employee Stock Ownership Account (to the extent such percentage exceeds the amount to which a prior election under this Section 8.8 had been made). The Plan shall make available at least 3 investment options (chosen by the Administrator in accordance with regulations prescribed by the Department of Treasury) to each Participant making an election hereunder. The Plan shall be deemed to have met the requirements of this Section if the portion of the Participant's Employee Stock Ownership Account covered by the election hereunder is distributed to the Participant or his designated Beneficiary within 90 days after the period during which the election may be made. In the absence of such a distribution, the Trustee shall implement the Participant's election within 90 days following the expiration of the qualified election period. Notwithstanding the foregoing, if the fair market value of the Employer Securities allocated to the Employee Stock Ownership Account of a Participant otherwise entitled to diversify hereunder is \$500 or less as of the Valuation Date immediately preceding the first day of any election period, then such Participant shall not be entitled to an election under this Section 8.8 for that qualified election period.

#### 8.9 Independent Appraiser.

An independent appraiser meeting the requirements of the regulations promulgated under Code Section 170(a)(1) shall value the Employer Securities in those Plan Years when such securities are not readily tradable on an established securities market.

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## ARTICLE IX

### PAYMENTS AND DISTRIBUTIONS

#### 9.1 Payments on Termination of Service - In General.

All benefits provided under this Plan shall be funded by the value of a Participant's vested Account in the Plan. As soon as practicable after a Participant's Retirement, Disability, death or other termination of Service, the Administrator shall ascertain the value of his vested Account, as provided in Article V, and the Administrator shall hold or dispose of the same in accordance with the following provisions of this Article IX.

#### 9.2 Commencement of Payments.

(a) Distributions upon Retirement, Disability or Death. Upon a Participant's Retirement, Disability or death, payment of benefits under this Plan shall, unless the Participant otherwise elects (in accordance with Section 9.3), commence as soon as practicable after the Valuation Date next following the date of the Participant's Retirement, Disability or death.

(b) Distribution following Termination of Service. Unless a Participant elects otherwise, if a Participant terminates Service prior to Retirement, Disability or death, he shall be accorded an opportunity to commence receipt of benefits as soon as practicable after the Valuation Date next following the date of his termination of Service. A Participant who terminates Service with a vested Account balance shall be entitled to receive from the Administrator a statement of his benefits. In the event that a Participant elects not to commence receipt of distribution in accordance with this Section 9.2(b) after the Participant incurs a Break, the Administrator shall transfer his vested Account balance to a distribution account. If a Participant's vested Account balance does not exceed \$5,000, the Plan Administrator shall distribute the vested portion of his Account balance as soon as administratively feasible without the consent of the Participant or his spouse.

(c) Distribution of Larger Accounts. If the value of a Participant's vested Account balance exceeds \$5,000, and the Account balance is immediately distributable, the Participant must consent to any distribution of such Account balance. The Administrator shall notify the Participant of the right to defer any distribution until the Participant's Account balance is no longer immediately distributable. The consent of the Participant shall not be required to the extent that a distribution is required to satisfy Code Section 401(a)(9) or Code Section 415.

#### 9.3 Mandatory Commencement of Benefits.

(a) Unless a Participant elects otherwise, in writing, distribution of benefits will begin no later than the 60th day after the latest to occur of the close of the Plan Year in which (i) the Participant attains age 65, (ii) the tenth anniversary of the Plan Year in which the Participant commenced participation, or (iii) the Participant terminates Service with the Employer and all Related Employers.

(b) In the event that the Plan shall be subsequently amended to provide for a form of distribution other than a lump sum, as of the first distribution calendar year, distributions, if not made in a lump sum, may be made only over one of the following periods (or a combination thereof):

- (i) the life of the Participant,
- (ii) the life of the Participant and the designated Beneficiary,
- (iii) a period certain not extending beyond the life expectancy of the Participant, or

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(iv) a period certain not extending beyond the joint and last survivor expectancy of the Participant and a designated Beneficiary.

(c) In the event that the Plan shall be subsequently amended to provide for a form of distribution other than a lump sum, if the Participant's interest is to be distributed in other than a lump sum, the following minimum distribution rules shall apply on or after the required beginning date:

(i) If a Participant's benefit is to be distributed over (1) a period not extending beyond the life expectancy of the Participant or the joint life and last survivor expectancy of the Participant and the Participant's designated Beneficiary or (2) a period not extending beyond the life expectancy of the designated Beneficiary, the amount required to be distributed for each calendar year, beginning with distributions for the first distribution calendar year, must at least equal the quotient obtained by dividing the Participant's benefit by the applicable life expectancy.

(ii) The amount to be distributed each year, beginning with distributions for the first distribution calendar year, shall not be less than the quotient obtained by dividing the Participant's Account balance by the lesser of (1) the applicable life expectancy, or (2) if the Participant's spouse is not the designated Beneficiary, the applicable divisor determined from the table set forth in Q&A-4 of section 1.401(a)(9)-2 of the Proposed Regulations. Distributions after the death of the Participant shall be distributed using the applicable life expectancy in subsection (iii) of Section 9.3(b) above as the relevant divisor without regard to Proposed Regulations section 1.401(a)(9)-2.

(iii) The minimum distribution required for the Participant's first distribution calendar year must be made on or before the Participant's required beginning date. The minimum distribution for other calendar years, including the minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, must be made on or before December 31 of the distribution calendar year.

(d) If a Participant dies after a distribution has commenced in accordance with Section 9.3(b) but before his entire interest has been distributed to him, the remaining portion of such interest shall be distributed to his Beneficiary at least as rapidly as under the method of distribution in effect as of the date of his death.

(e) If a Participant shall die before the distribution of his Account balance has begun, the entire Account balance shall be distributed by December 31 of the calendar year containing the fifth anniversary of the death of the Participant, except in the following events:

(i) If any portion of the Participant's Account balance is payable to (or for the benefit of) a designated Beneficiary over a period not extending beyond the life expectancy of such Beneficiary and such distributions begin not later than December 31 of the calendar year immediately following the calendar year in which the Participant died; or

(ii) If any portion of the Participant's Account balance is payable to (or for the benefit of) the Participant's spouse over a period not extending beyond the life expectancy of such spouse and such distributions begin no later than December 31 of the calendar year in which the Participant would have attained age 70-1/2.

If the Participant has not made a distribution election by the time of his death, the Participant's designated Beneficiary shall elect the method of distribution no later than the earlier of (1) December 31 of the calendar year in which distributions would be required to begin under this Article or (2) December 31 of the calendar year which contains the fifth anniversary of the date of death of the Participant. If the Participant has no designated Beneficiary, or if the designated Beneficiary does not elect a method of distribution, distribution of the Participant's entire interest shall be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

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(f) For purposes of this Article, the life expectancy of a Participant and his spouse may be redetermined but not more frequently than annually. The life expectancy (or joint and last survivor expectancy) shall be calculated using the attained age of the Participant (or designated Beneficiary) as of the Participant's (or designated Beneficiary's) birthday in the applicable calendar year reduced by one for each calendar year which has elapsed since the date life expectancy was first calculated. If life expectancy is being recalculated, the applicable life expectancy shall be the life expectancy as so recalculated. The applicable calendar year shall be the first distribution calendar year, and if life expectancy is being recalculated, such succeeding calendar year. Unless otherwise elected by the Participant (or his spouse, if applicable) by the time distributions are required to begin, life expectancies shall be recalculated annually. Any election not to recalculate shall be irrevocable and shall apply to all subsequent years. The life expectancy of a nonspouse Beneficiary may not be recalculated.

(g) For purposes of Section 9.3(b) and 9.3(e), any amount paid to a child shall be treated as if it had been paid to a surviving spouse if such amount will become payable to the surviving spouse upon such child reaching majority (or other designated event permitted under regulations).

(h) For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to this Article.

(i) The Plan will apply the minimum distribution requirements of Section 401(a)(9) of the Internal Revenue Code in accordance with the regulations under Section 401(a)(9) of the Code that were proposed in January, 2001, notwithstanding any provision of the Plan to the contrary. This amendment shall continue in effect until the end of the last calendar year beginning before the effective date of the final regulations under section 401(a)(9) or such other date specified in guidance published by the Internal Revenue Service.

#### 9.4 Required Beginning Dates.

(a) General Rule. The required beginning date of a Participant who is a 5-percent owner of the Employer is the first day of April of the calendar year following the calendar year in which the Participant attains age 70-1/2. The required beginning date of a Participant who is not a 5-percent owner shall be April 1 of the calendar year following the later of either: (i) the calendar year in which the Participant attains age 70-1/2, or (ii) the calendar year in which the Participant retires.

(b) 5-percent owner. A Participant is treated as a 5-percent owner for purposes of this section if such Participant is a 5-percent owner as defined in section 416(i) of the Code (determined in accordance with section 416 but without regard to whether the plan is top-heavy) at any time during the Plan Year ending with or within the calendar year in which such owner attains age 66-1/2 or any subsequent Plan Year. Once distributions have begun to a 5-percent owner under this section, they must continue to be distributed, even if the Participant ceases to be a 5-percent owner in a subsequent year.

#### 9.5 Form of Payment.

Each Participant's vested Account balance shall be distributed in a lump sum payment. Notwithstanding the preceding sentence, but subject to Section 9.3, the Administrator may not distribute a lump sum without the Participant's consent when the present value of a Participant's total Account balance is in excess of \$5,000. This form of payment shall be the normal form of distribution. Furthermore, however, in the event that the Administrator must commence distributions, as required by Section 9.4 herein, with respect to an Employee who has attained age 70-1/2 and is still employed by the Employer, if the Employee does not elect a lump sum distribution, payments shall be made in installments in such amounts as shall satisfy the minimum distribution rules of Section 9.3.

#### 9.6 Payments Upon Termination of Plan.

Upon termination of this Plan pursuant to Sections 13.2, 13.4, 13.5 or 13.6, the Administrator shall continue to perform its duties and the Trustee shall make all payments upon the following terms, conditions and provisions: The Account balance of each affected Participant and Former Participant shall immediately become fully vested and nonforfeitable; the Account balance of all Participants and Former Participants shall be determined within 60 days after such termination, and the Administrator shall have

the same powers to direct the Trustee in making payments as contained in Sections 9.1 and 13.5.

#### 9.7 Distributions Pursuant to Qualified Domestic Relations Orders.

Upon receipt of a domestic relations order, the Administrator shall promptly notify the Participant and any alternate payee of receipt of the order and the Plan's procedure for determining whether the order is a Qualified Domestic Relations Order. While the issue of whether a domestic relations order is a Qualified Domestic Relations Order is being determined, if the benefits would otherwise be paid, the Administrator shall segregate in a separate account in the Plan the amounts that would be payable to the alternate payee during such period if the order were a Qualified Domestic Relations Order. If within 18 months the order is determined to be a Qualified Domestic Relations Order, the amounts so segregated, along with the interest or investment earnings attributable thereto, shall be paid to the alternate payee. Alternatively, if within 18 months, it is determined that the order is not a Qualified Domestic Relations Order or if the issue is still unresolved, the amounts segregated under this Section 9.7, with the earnings attributable thereto, shall be paid to the Participant or Beneficiary who would have been entitled to such amounts if there had been no order. The determination as to whether the order is qualified shall be applied prospectively. Thus, if the Administrator determines that the order is a Qualified Domestic Relations Order after the 18-month period, the Plan shall not be liable for payments to the alternative payee for the period before the order is determined to be a Qualified Domestic Relations Order.

#### 9.8 Cash-Out Distributions.

If a Participant receives a distribution of his entire vested Account balance because of the termination of his participation in the Plan, the Plan shall disregard a Participant's Service with respect to which such cash-out distribution shall have been made, in computing his Account balance in the event that a Former Participant shall again become an Employee and become eligible to participate in the Plan. Such a distribution shall be deemed to be made on termination of participation in the Plan if it is made not later than the close of the second Plan Year following the Plan Year in which such termination occurs. The forfeitable portion of a Participant's Account balance shall be restored upon repayment to the Plan by such Former Participant of the full amount of the cash-out distribution, provided that the Former Participant again becomes an Employee. Such repayment must be made by the Employee not later than the end of the 5-year period beginning with the date of the distribution. Forfeitures required to be restored by virtue of such repayment shall be restored from the following sources in the following order of preference: (i) current forfeitures; (ii) an additional Employee Stock Ownership Contribution, as appropriate, and as subject to Section 5.6; and (iii) investment earnings of the Fund. In the event that a Participant's Account balance is totally forfeitable, a Participant shall be deemed to have received a distribution of zero upon his termination of Service. In the event of a return to Service within 5 years of the date of his deemed distribution, the Participant shall be deemed to have repaid his distribution in accordance with the rules of this Section 9.8.

#### 9.9 ESOP Distribution Rules.

Notwithstanding any provision of this Article IX to the contrary, the distribution of a Participant's Employee Stock Ownership Account (unless the Participant elects otherwise in writing) shall commence as soon as administratively feasible as of the first Valuation Date coincident with or next following his death, Disability or termination of Service, but not later than 1 year after the close of the Plan Year in which the Participant separates from Service by reason of the attainment of his Normal Retirement Date, Disability, death or separation from

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Service. In addition, all distributions hereunder shall, to the extent that the Participant's Account is invested in Employer Securities, be made in the form of Employer Securities or cash, or a combination of Employer Securities and cash, in the discretion of the Administrator, subject to the Participant's right to demand Employer Securities in accordance with Section 8.1. Fractional shares, however, may be distributed in the form of cash.

#### 9.10 Direct Rollover.

(a) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Article IX, a distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an "eligible rollover distribution" paid directly to an "eligible retirement plan" specified by the distributee in a "direct rollover."

(b) For purposes of this Section 9.10, an "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee, except that an "eligible rollover distribution" does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to Employer Securities).

(c) For purposes of this Section 9.10, an "eligible retirement plan" is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in

section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an "eligible rollover distribution" to the surviving spouse, an "eligible retirement plan" is an individual retirement account or individual retirement annuity. An eligible retirement plan shall also mean an annuity contract described in section 403(b) of the Code and an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in section 414(p) of the Code.

(d) For purposes of this Section 9.10, a distributee includes a Participant or Former Participant. In addition, the Participant's or Former Participant's surviving spouse and the Participant's or Former Participant's spouse or former spouse who is the alternate payee under a Qualified Domestic Relations Order are "distributees" with regard to the interest of the spouse or former spouse.

(e) For purposes of this Section 9.10, a "direct rollover" is a payment by the Plan to the "eligible retirement plan" specified by the distributee.

#### 9.11 Waiver of 30-day Notice.

If a distribution is one to which Sections 401(a)(11) and 417 of the Code do not apply, such distribution may commence less than 30 days after the notice required under Section 1.411(a)-11(c) of the Income Tax Regulations is given, provided that: (1) the Administrator clearly informs the Participant that the Participant has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option), and (2) the Participant, after receiving the notice, affirmatively elects a distribution.

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#### 9.12 Re-employed Veterans.

Notwithstanding any provision of the Plan to the contrary, contributions, benefits, Plan loan repayment suspensions and Service credit with respect to qualified military service will be provided in accordance with Code Section 414(u).

#### 9.13 Share Legend.

Employer Securities held or distributed by the Trustee may include such legend restrictions on transferability as the Employer may reasonably require in order to assure compliance with applicable Federal and State securities and other laws.

## ARTICLE X

### PROVISIONS RELATING TO TOP-HEAVY PLANS

#### 10.1 Top-Heavy Rules to Control.

Anything contained in this Plan to the contrary notwithstanding, if for any Plan Year the Plan is a top-heavy plan, as determined pursuant to Section 416 of the Code, then the Plan must meet the requirements of this Article X for such Plan Year.

#### 10.2 Top-Heavy Plan Definitions.

Unless a different meaning is plainly implied by the context, the following terms as used in this Article X shall have the following meanings:

- (a) "Accrued Benefit" shall mean the account balances or accrued benefits of an Employee, calculated pursuant to Section 10.3.
- (b) "Determination Date" shall mean, with respect to any particular Plan Year of this Plan, the last day of the preceding Plan Year (or, in the case of the first Plan Year of the Plan, the last day of the first Plan Year). In addition, the term "Determination Date" shall mean, with respect to any particular plan year of any plan (other than this Plan) in a Required Aggregation Group or a Permissive Aggregation Group, the last day of the plan year of such plan which falls within the same calendar year as the Determination Date for this Plan.
- (c) "Employer" shall mean the Employer (as defined in Section 1.1(q)) and any entity which is (1) a member of a controlled group including such Employer, while it is a member of such controlled group (within the meaning of Section 414(b) of the Code), (2) in a group of trades or businesses under common control with such Employer, while it is under common control (within the meaning of Section 414(c) of the Code), and (3) a member of an affiliated service group including such Employer, while it is a member of such affiliated service group (within the meaning of Section 414(m) of the Code).
- (d) "Key Employee" shall mean any Employee or former Employee (including any deceased Employee) who at any time during the Plan Year that includes the Determination Date was an officer of the Employer having annual compensation greater than \$130,000 (as adjusted under section 416(i)(1) of the Code for plan years beginning after December 31, 2002), a 5-percent owner of the Employer, or a 1-percent owner of the Employer having annual compensation of more than \$150,000. For this purpose, annual compensation means compensation within the meaning of section 415(c)(3) of the Code. The determination of who is a key employee will be made in accordance with section 416(i)(1) of the Code and the applicable regulations and other guidance of general applicability issued thereunder.
- (e) "Non-Key Employee" shall mean any Employee or former Employee (or any Beneficiary of such Employee or former Employee, as the case may be) who is not considered to be a Key Employee with respect to this Plan.
- (f) "Permissive Aggregation Group" shall mean all plans in the Required Aggregation Group and any other plans maintained by the Employer which satisfy Sections 401(a)(4) and 410 of the Code when considered together with the Required Aggregation Group.
- (g) "Required Aggregation Group" shall mean each plan (including any terminated plan) of the Employer in which a Key Employee is (or in the case of a terminated plan, had been) a Participant in the Plan Year containing the Determination Date or any of the 4 preceding Plan Years, and each other plan of the Employer which

enables any plan of the Employer in which a Key Employee is a Participant to meet the requirements of Sections 401(a)(4) and 410 of the Code.

#### 10.3 Calculation of Accrued Benefits.

- (a) An Employee's Accrued Benefit shall be equal to:

(1) With respect to this Plan or any other defined contribution plan (other than a defined contribution pension plan) in a Required Aggregation Group or a Permissive Aggregation Group, the Employee's account balances under the respective plan, determined as of the most recent plan valuation date within a 12-month period ending on the Determination Date, including contributions actually made after the valuation date but before the Determination Date (and, in the first plan year of a plan, also including any contributions made after the Determination Date which are allocated as of a date in the first plan year).

(2) With respect to any defined contribution pension plan in a Required Aggregation Group or a Permissive Aggregation Group, the Employee's account balances under the plan, determined as of the most recent plan valuation date within a 12-month period ending on the Determination Date, including contributions which have not actually been made, but which are due to be made as of the Determination Date.

(3) With respect to any defined benefit plan in a Required Aggregation Group or a Permissive Aggregation Group, the present value of the Employee's accrued benefits under the plan, determined as of the most recent plan valuation date within a 12-month period ending on the Determination Date, pursuant to the actuarial assumptions used by such plan, and calculated as if the Employee terminated Service under such plan as of the valuation date (except that, in the first plan year of a plan, a current Participant's estimated Accrued Benefit as of the Determination Date shall be taken into account).

(4) The present values of accrued benefits and the amounts of account balances of an employee as of the Determination Date shall be increased by the distributions made with respect to the employee under the Plan and any plan aggregated with the Plan under section 416(g)(2) of the Code during the 1-year period ending on the Determination Date. The preceding sentence shall also apply to distributions under a terminated plan which, had it not been terminated, would have been aggregated with the Plan under section 416(g)(2)(A)(i) of the Code. In the case of a distribution made for a reason other than separation from service, death, or disability, this provision shall be applied by substituting "5-year period" for "1-year period."

(5) The accrued benefits and accounts of any individual who has not performed services for the Employer during the 1-year period ending on the Determination Date shall not be taken into account.

(6) The Accrued Benefit shall be calculated to include all amounts attributable to both Employer and Employee contributions, but shall exclude amounts attributable to voluntary deductible Employee contributions, if any.

(7) Rollover and direct plan-to-plan transfers shall be taken into account as follows:

(A) If the transfer is initiated by the Employee and made from a plan maintained by one employer to a plan maintained by another unrelated employer, the transferring plan shall continue to count the amount transferred; the receiving plan shall not count the amount transferred.

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(B) If the transfer is not initiated by the Employee or is made between plans maintained by related employers, the transferring plan shall no longer count the amount transferred; the receiving plan shall count the amount transferred.

#### 10.4 Determination of Top-Heavy Status.

This Plan shall be considered to be a top-heavy plan for any Plan Year if, as of the Determination Date, the value of the Accrued Benefits of Key Employees exceeds 60% of the value of the Accrued Benefits of all eligible Employees under the Plan. Notwithstanding the foregoing, if the Employer maintains any other qualified plan, the determination of whether this Plan is top-heavy shall be made after aggregating all other plans of the Employer in the Required Aggregation Group and, if desired by the Employer as a means of avoiding top-heavy status, after aggregating any other plan of the Employer in the Permissive Aggregation Group. If the required Aggregation Group is top-heavy, then each plan contained in such group shall be deemed to be top-heavy, notwithstanding that any particular plan in such group would not otherwise be deemed to be top-heavy. Conversely, if the Permissive Aggregation Group is not top-heavy, then no plan contained in such group shall be deemed to be top-heavy, notwithstanding that any particular plan in such group would otherwise be deemed to be top-heavy. In no event shall a plan included in a top-heavy Permissive Aggregation Group be deemed a top-heavy plan unless such plan is also included in a top-heavy Required Aggregation Group.

#### 10.5 Minimum Contribution.

(a) For any Plan Year in which the Plan is top-heavy, each Non-Key Employee who has met the age and service requirements, if any, contained in the Plan, shall be entitled to a minimum contribution (which may include forfeitures otherwise allocable) equal to a percentage of such Non-Key Employee's compensation (as defined in Section 415 of the Code) as follows:

(1) If the Non-Key Employee is not covered by a defined benefit plan maintained by the Employer, then

the minimum contribution under this Plan shall be 3% of such Non-Key Employee's compensation.

(2) If the Non-Key Employee is covered by a defined benefit plan maintained by the Employer, then the minimum contribution under this Plan shall be 5% of such Non-Key Employee's compensation.

(b) Notwithstanding the foregoing, the minimum contribution otherwise allocable to a Non-Key Employee under this Plan shall be reduced in the following circumstances:

(1) The percentage minimum contribution required under this Plan shall in no event exceed the percentage contribution made for the Key Employee for whom such percentage is the highest for the Plan Year after taking into account contributions under other defined contribution plans in this Plan's Required Aggregation Group; provided, however, that this Section 10.5(b)(1) shall not apply if this Plan is included in a Required Aggregation Group and this Plan enables a defined benefit plan in such Required Aggregation Group to meet the requirements of Section 401(a)(4) or 410 of the Code.

(2) No minimum contribution shall be required (or the minimum contribution shall be reduced, as the case may be) for a Non-Key Employee under this Plan for any Plan Year if the Employer maintains another qualified plan under which a minimum benefit or contribution is being accrued or made on account of such Plan Year, in whole or in part, on behalf of the Non-Key Employee, in accordance with Section 416(c) of the Code.

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(c) For purposes of this Section 10.5, there shall be disregarded (1) any Employer contributions attributable to a salary reduction or similar arrangement, or (2) any Employer contributions to or any benefits under Chapter 21 of the Code (relating to the Federal Insurance Contributions Act), Title II of the Social Security Act, or any other federal or state law.

(d) For purposes of this Section 10.5, minimum contributions shall be required to be made on behalf of only those Non-Key Employees, as described in Section 10.6(a), who have not terminated Service as of the last day of the Plan Year. If a Non-Key Employee is otherwise entitled to receive a minimum contribution pursuant to this Section 10.5(d), the fact that such Non-Key Employee failed to complete 1,000 Hours of Service or failed to make any mandatory or elective contributions under this Plan, if any are so required, shall not preclude him from receiving such minimum contribution.

(e) Matching contributions shall be taken into account for purposes of satisfying the minimum contribution requirements of section 416(c)(2) of the Code and the Plan. The preceding sentence shall apply with respect to matching contributions under the Plan or, if the plan provides that the minimum contribution requirement shall be met in another plan, such other plan. Matching contributions that are used to satisfy the minimum contribution requirements shall be treated as matching contributions for purposes of the actual contribution percentage test and other requirements of section 401(m) of the Code.

#### 10.6 Vesting.

(a) For any Plan Year in which the Plan is a top-heavy plan, a Participant's Accrued Benefit derived from Employer contributions (not including contributions made pursuant to Code Section 401(k), if any) shall continue to vest according to the following schedule:

##### Years of Service Completed Percentage Vested

Less than 3 0%  
3 or more 100%

(b) For purposes of Section 10.6(a), the term "year of service" shall have the same meaning as Year of Vesting Service, as set forth in Section 1.1(ss), and as modified by Section 3.2.

(c) If for any Plan Year the Plan becomes top-heavy and the vesting schedule set forth in Section 10.6(a) becomes effective, then, even if the Plan ceases to be top-heavy in any subsequent Plan Year, the vesting schedule set forth in Section 10.6(a) shall remain applicable with respect to any Participant who has completed 3 or more Years of Service.

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ADMINISTRATION11.1 Appointment of Administrator.

This Plan shall be administered by a committee consisting of up to 5 persons, whether or not Employees or Participants, who shall be appointed from time to time by the Board of Directors to serve at its pleasure. The Sponsor may require that each person appointed as an Administrator shall signify his acceptance by filing an acceptance with the Sponsor. The term "Administrator" as used in this Plan shall refer to the members of the committee, either individually or collectively, as appropriate. The authority to control and manage the operation and administration of the Plan is vested in the Administrator appointed by the Board of Directors. The Administrator shall have the rights, duties and obligations of an "administrator," as that term is defined in section 3(16)(A) of the Act, and of a "plan administrator," as that term is defined in Section 414(g) of the Code. In the event that the Sponsor shall elect not to appoint any individuals to constitute a committee to administer the Plan, the Sponsor shall serve as the Administrator hereunder.

11.2 Resignation or Removal of Administrator.

An Administrator shall have the right to resign at any time by giving notice in writing, mailed or delivered to the Sponsor and to the Trustee. Any Administrator who was an employee of the Employer at the time of his appointment shall be deemed to have resigned as an Administrator upon his termination of Service. The Board of Directors may, in its discretion, remove any Administrator with or without cause, by giving notice in writing, mailed or delivered to the Administrator and to the Trustee.

11.3 Appointment of Successors: Terms of Office, Etc.

Upon the death, resignation or removal of an Administrator, the Sponsor may appoint, by Board of Directors' resolution, a successor or successors. Notice of termination of an Administrator and notice of appointment of a successor shall be made by the Sponsor in writing, with copies mailed or delivered to the Trustee, and the successor shall have all the rights and privileges and all of the duties and obligations of the predecessor.

11.4 Powers and Duties of Administrator.

The Administrator shall have the following duties and responsibilities in connection with the administration of this Plan:

- (a) To promulgate and enforce such rules, regulations and procedures as shall be proper for the efficient administration of the Plan, such rules, regulations and procedures to apply uniformly to all Employees, Participants and Beneficiaries;
- (b) To exercise discretion in determining all questions arising in the administration, interpretation and application of the Plan, including questions of eligibility and of the status and rights of Participants, Beneficiaries and any other persons hereunder;
- (c) To decide any dispute arising hereunder strictly in accordance with the terms of the Plan; provided, however, that no Administrator shall participate in any matter involving any questions relating solely to his own participation or benefits under this Plan;
- (d) To advise the Employer and direct the Trustee regarding the known future needs for funds to be available for distribution in order that the Trustee may establish investments accordingly;

- (e) To correct defects, supply omissions and reconcile inconsistencies to the extent necessary to effectuate the Plan;
- (f) To advise the Employer of the maximum deductible contribution to the Plan for each fiscal year;
- (g) To direct the Trustee concerning all matters requiring the Administrator's direction pursuant to the provisions of this Plan and the Trust Agreement;
- (h) To advise the Trustee on all terminations of Service by Participants, unless the Employer has so notified the Trustee;

- (i) To confer with the Trustee on the settling of any claims against the Fund;
- (j) To make recommendations to the Board of Directors with respect to proposed amendments to the Plan and the Trust Agreement;
- (k) To file all reports with government agencies, Employees and other parties as may be required by law, whether such reports are initially the obligation of the Employer, the Plan or the Trustee;
- (l) To have all such other powers as may be necessary to discharge its duties hereunder; and
- (m) To direct the Trustee to pay all expenses of administering this Plan, except to the extent that the Employer pays such expenses.

Full discretion is granted to the Administrator to interpret the Plan and to determine the benefits, rights and privileges of Participants, Beneficiaries or other persons affected by this Plan. The Administrator shall exercise its discretion under the terms of this Plan and shall administer the Plan in accordance with its terms, such administration to be exercised uniformly so that all persons similarly situated shall be similarly treated.

#### 11.5 Action by Administrator.

The Administrator may elect a Chairman and Secretary from among its members and may adopt rules for the conduct of its business. A majority of the members then serving shall constitute a quorum for the transaction of business. All resolutions or other action taken by the Administrator shall be by vote of a majority of those present at such meeting and entitled to vote. Resolutions may be adopted or other action taken without a meeting upon written consent signed by at least a majority of the members. All documents, instruments, orders, requests, directions, instructions and other papers shall be executed on behalf of the Administrator by either the Chairman or the Secretary of the Administrator, if any, or by any member or agent of the Administrator duly authorized to act on the Administrator's behalf.

#### 11.6 Participation by Administrator.

No member of the committee constituting the Administrator shall be precluded from becoming a Participant in the Plan if he would be otherwise eligible, but he shall not be entitled to vote or act upon matters or to sign any documents relating specifically to his own participation under the Plan, except when such matters or documents relate to benefits generally. If this disqualification results in the lack of a quorum, then the Board of Directors shall appoint a sufficient number of temporary members of the committee constituting the Administrator who shall serve for the sole purpose of determining such a question.

#### 11.7 Agents.

The Administrator may employ agents and provide for such clerical, legal, actuarial, accounting, medical, advisory or other services as it deems necessary to perform its duties under this Plan. The cost of such services and all other expenses incurred by the Administrator in connection with the administration of the Plan shall be paid from the Fund, unless paid by the Employer.

#### 11.8 Allocation of Duties.

The duties, powers and responsibilities reserved to the Administrator may be allocated among its members so long as such allocation is pursuant to written procedures adopted by the Administrator, in which case, except as may be required by the Act, no Administrator shall have any liability, with respect to any duties, powers or responsibilities not allocated to him, for the acts or omissions of any other Administrator.

#### 11.9 Delegation of Duties.

The Administrator may delegate any of its duties to any Employees of the Employer, to the Trustee with its written consent, or to any other person or firm, provided that the Administrator shall prudently choose such agents and rely in good faith on their actions.

#### 11.10 Administrator's Action Conclusive.

Any action on matters within the authority of the Administrator shall be final and conclusive except as provided in Article XII.

#### 11.11 Compensation and Expenses of Administrator.

No Administrator who is receiving compensation from the Employer as a full-time employee, as a director or agent, shall be entitled to receive any compensation or fee for his services hereunder. Any other Administrator shall be entitled to receive such reasonable compensation for his services as an Administrator hereunder as may be mutually agreed upon between the Employer and such Administrator. Any such compensation shall be paid from the Fund, unless paid by the Employer. Each Administrator shall be entitled to reimbursement by the Employer for any reasonable and necessary expenditures incurred in the discharge of his duties.

#### 11.12 Records and Reports.

The Administrator shall maintain adequate records of its actions and proceedings in administering this Plan and shall file all reports and take all other actions as it deems appropriate in order to comply with the Act, the Code and governmental regulations issued thereunder.

#### 11.13 Reports of Fund Open to Participants.

The Administrator shall keep on file, in such form as it shall deem convenient and proper, all annual reports of the Fund received by the Administrator from the Trustee, and a statement of each Participant's interest in the Fund as from time to time determined. The annual reports of the Fund and the statement of his Account balance, as well as a complete copy of the Plan and the Trust Agreement and copies of annual reports to the Internal Revenue Service, shall be made available by the Administrator to the Employer for examination by each Participant during reasonable hours at the office of the Employer, provided, however, that the statement of a Participant's Account balance shall not be made available for examination by any other Participant.

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#### 11.14 Named Fiduciary.

The Administrator is the named fiduciary for purposes of Section 402 of the Act and shall be the designated agent for receipt of service of process on behalf of the Plan. It shall use the care and diligence in the performance of its duties under this Plan that are required of fiduciaries under the Act. Nothing in this Plan shall preclude the Employer from purchasing liability insurance to protect the Administrator with respect to its duties under this Plan.

#### 11.15 Information from Employer.

The Employer shall promptly furnish all necessary information to the Administrator to permit it to perform its duties under this Plan. The Administrator shall be entitled to rely upon the accuracy and completeness of all information furnished to it by the Employer, unless it knows or should have known that such information is erroneous.

#### 11.16 Responsibilities of Directors.

Subject to the rights reserved to the Board of Directors acting on behalf of the Employer as set forth in this Plan, no member of the Board of Directors shall have any duties or responsibilities under this Plan, except to the extent he shall be acting in the capacity of an Administrator or Trustee.

#### 11.17 Liability and Indemnification.

(a) To the extent not prohibited by the Act, the Administrator shall not be responsible in any way for any action or omission of the Employer, the Trustee or any other person in the performance of their duties and obligations set forth in this Plan and in the Trust Agreement. To the extent not prohibited by the Act, the Administrator shall also not be responsible for any act or omission of any of its agents, or with respect to reliance upon advice of its counsel (whether or not such counsel is also counsel to the Employer or the Trustee), provided that such agents or counsel were prudently chosen by the Administrator and that the Administrator relied in good faith upon the action of such agent or the advice of such counsel.

(b) The Administrator shall not be relieved from responsibility or liability for any responsibility, obligation or duty imposed upon it under this Plan or under the Act. Except for its own gross negligence, willful misconduct or willful breach of the terms of this Plan, the Administrator shall be indemnified and held harmless by the Employer against liability or losses occurring by reason of any act or omission of the Administrator to the extent that such indemnification does not violate the Act or any other federal or state laws.

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## ARTICLE XII

CLAIMS PROCEDURE12.1 Notice of Denial.

If a Participant or his Beneficiary is denied any benefits under this Plan, either in whole or in part, the Administrator shall advise the claimant in writing of the amount of his benefit, if any, and the specific reasons for the denial. The Administrator shall also furnish the claimant at that time with a written notice containing:

- (a) A specific reference to pertinent Plan provisions;
- (b) A description of any additional material or information necessary for the claimant to perfect his claim, if possible, and an explanation of why such material or information is needed; and
- (c) An explanation of the Plan's claim review procedure.

12.2 Right to Reconsideration.

Within 60 days of receipt of the information described in 12.1 above, the claimant shall, if he desires further review, file a written request for reconsideration with the Administrator.

12.3 Review of Documents.

So long as the claimant's request for review is pending (including the 60-day period described in Section 12.2 above), the claimant or his duly authorized representative may review pertinent Plan documents and the Trust Agreement (and any pertinent related documents) and may submit issues and comments in writing to the Administrator.

12.4 Decision by Administrator.

A final and binding decision shall be made by the Administrator within 60 days of the filing by the claimant of his request for reconsideration; provided, however, that if the Administrator feels that a hearing with the claimant or his representative present is necessary or desirable, this period shall be extended an additional 60 days.

12.5 Notice by Administrator.

The Administrator's decision shall be conveyed to the claimant in writing and shall include specific reasons for the decision, written in a manner calculated to be understood by the claimant, with specific references to the pertinent Plan provisions on which the decision is based. The Administrator's decision shall be binding and conclusive with respect to all persons interested therein unless the Administrator has no reasonable basis for its decision.

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## ARTICLE XIII

### AMENDMENTS, TERMINATION AND MERGER

#### 13.1 Amendments.

The Sponsor reserves the right at any time and from time to time, for any reason and retroactively if deemed necessary or appropriate by it, to the extent permissible under law, to conform with governmental regulations or other policies, to amend in whole or in part any or all of the provisions of this Plan, provided that:

- (a) No amendment shall make it possible for any part of the Fund to be used for, or diverted to, purposes other than for the exclusive benefit of Participants or their Beneficiaries under the Trust Agreement, except to the extent provided in Section 4.4;
- (b) No amendment may, directly or indirectly, reduce the vested portion of any Participant's Account balance as of the effective date of the amendment or change the vesting schedule with respect to the future accrual of Employer contributions for any Participants unless each Participant with 3 or more Years of Vesting Service is permitted to elect to have the vesting schedule in effect before the amendment used to determine his vested benefit;
- (c) No amendment may eliminate an optional form of benefit; and.
- (d) No amendment may increase the duties of the Trustee without its consent.

Amendments may be made in the form of Board of Directors' resolutions or separate written document. Copies of all amendments shall be delivered to the Trustee.

#### 13.2 Effect of Change In Control

(a) In the event of a "change in control" of the Sponsor, as defined in paragraph (d) below, this Plan shall terminate at the effective time of such change in control. Nothing in this Plan shall prevent the Sponsor from becoming a party to such a change in control.

(b) Upon the effective time of a change in control, the Account balances of all affected Participants and Former Participants shall become fully vested and nonforfeitable, and the Trustee shall make payments to each Participant and Beneficiary in accordance with Section 9.5.

(c) Notwithstanding any provision of the Plan to the contrary, at and after the effective time of a change in control, each of the following provisions shall become applicable; provided, however, that any such provision shall not apply if the Board of Directors determines that such provision would adversely affect the tax-qualified status of the Plan pursuant to Code Section 401(a), or should not apply for any other reason:

(1) The Plan shall be interpreted, maintained and operated exclusively for the benefit of those individuals who are participating in the Plan as of the effective time of the change in control and their Beneficiaries. Notwithstanding the provisions of Section 2.1(a), no Employee shall become a Participant for the first time at or after the effective time of a change in control.

(2) After a Participant's Retirement, Disability or other termination of Service, such Participant's Account, regardless of its value, shall not be distributed and shall share in the allocation of the Employee Stock Ownership Contribution and Investment Adjustments until such time as either (A) the Fund is liquidated in connection with the termination of the Plan, or (B) the Participant (or his Beneficiary) receives a full distribution of his Account either upon his election in accordance with Section 9.2(c) or as required in accordance with Section 8.8, 9.3 or 9.4.

(3) Upon the termination of the Plan, Employer Securities that are allocated to the Exempt Loan Suspense Account and that are not used to repay an Exempt Loan shall be allocated as Investment Adjustments in accordance with Section 5.3.

(4) Employer Securities that are released from the Exempt Loan Suspense Account in accordance with

Section 8.5 shall be allocated to the Employee Stock Ownership Account of each Participant regardless of whether he completed a Year of Vesting Service during the Plan Year or was an Employee on the last day of such Plan Year.

(5) The Administrator shall consist of a committee selected by the Board of Directors, and such committee shall have the exclusive authority (i) to remove the Trustee and to appoint a successor trustee, (ii) to adopt amendments to the Plan or the Trust Agreement to effectuate the provisions and intent of this Section 13.2, and (iii) to perform any or all of the functions and to exercise all of the discretion that are delegated to the Administrator pursuant to Article XI.

(6) Any application for a favorable determination letter with respect to the tax-qualified status of the Plan under Code Section 401(a) with respect to its termination shall be subject to the prior review, comment and approval (which approval shall not be unreasonably withheld) of the Administrator, as defined in paragraph (5) above.

(d) For purposes of this Section 13.2, the term "change in control" means the occurrence of any one or more of the events specified in the following clauses (i) through (iii): (i) any third person, including a "group" as defined in Section 13(d)(3) of the Securities Exchange Act of 1934, shall become the beneficial owner of shares of the Sponsor with respect to which 25% or more of the total number of votes for the election of the Board of Directors may be cast, (ii) as a result of, or in connection with, any cash tender offer, merger or other business combination, sale of assets or contested election, or combination of the foregoing, the persons who were directors of the Sponsor shall cease to constitute a majority of the Board of Directors, or (iii) the effective time of a transaction that is approved by the stockholders of the Sponsor and that provides either for the Sponsor to cease to be an independent publicly-owned corporation or for a sale or other disposition of all or substantially all of the assets of the Sponsor.

### 13.3 Consolidation or Merger of Trust.

In the event of any merger or consolidation of the Fund with, or transfer in whole or in part of the assets and liabilities of the Fund to, another trust fund held under any other plan of deferred compensation maintained or to be established for the benefit of all or some of the Participants of this Plan, the assets of the Fund applicable to such Participants shall be transferred to the other trust fund only if:

(a) Each Participant would receive a benefit under such successor trust fund immediately after the merger, consolidation or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation or transfer (determined as if this Plan and such transferee trust fund had then terminated)

(b) Resolutions of the Board of Directors, or of any new or successor employer of the affected Participants, shall authorize such transfer of assets, and, in the case of the new or successor employer of the affected Participants, its resolutions shall include an assumption of liabilities imposed under this Plan with respect to such Participants' inclusion in the new employer's plan; and

(c) Such other plan and trust are qualified under Sections 401(a) and 501(a) of the Code.

### 13.4 Bankruptcy or Insolvency of Employer.

In the event of (a) the Employer's legal dissolution or liquidation by any procedure other than a consolidation or merger, (b) the Employer's receivership, insolvency, or cessation of its business as a going concern, or (c) the commencement of any proceeding by or against the Employer under the federal bankruptcy laws, or similar federal or state statute, or any federal or state statute or rule providing for the relief of debtors, compensation of creditors, arrangement, receivership, liquidation or any similar event which is not dismissed within 30 days, this Plan shall terminate automatically with respect to such entity on such date (provided, however, that if a proceeding is brought against the Employer for reorganization under Chapter 11 of the United States Bankruptcy Code or any similar federal or state statute, then this Plan shall terminate automatically if and when said proceeding results in a liquidation of the Employer, or the approval of any Plan providing therefor, or the proceeding is converted to a case under Chapter 7 of the Bankruptcy Code or any similar conversion to a liquidation proceeding under federal or state law including, but not limited to, a receivership proceeding). In the event of any such termination as provided in the foregoing sentence, the Trustee shall make payments to the persons entitled thereto in accordance with Section 9.6 hereof.

### 13.5 Voluntary Termination.

The Board of Directors reserves the right to terminate this Plan at any time by giving to the Trustee and the Administrator notice in writing of such desire to terminate. The Plan shall terminate upon the date of receipt of such notice, the Account balances of all affected Participants and Former Participants shall become fully vested and nonforfeitable, and the Trustee shall make payments to each Participant or Beneficiary in accordance with Section 9.6. Alternatively, the Sponsor, in its discretion,

may determine to continue the Trust Agreement and to continue the maintenance of the Fund, in which event distributions shall be made upon the contingencies and in all the circumstances under which such distributions would have been made, on a fully vested basis, had there been no termination of the Plan. In addition, an entity other than the Sponsor that is participating in this Plan may terminate its participation in the Plan on a prospective basis by action of its board of directors. Upon such termination of participation, Participants who are employees of such entity shall be entitled to distributions from this Plan in accordance with Article IX and this Article XIII.

13.6 Partial Termination of Plan or Permanent Discontinuance of Contributions.

In the event that a partial termination of the Plan shall be deemed to have occurred, or if the Employer shall discontinue permanently its contributions hereunder, the right of each affected Participant and Former Participant in his Account balance shall be fully vested and nonforfeitable. The Sponsor, in its discretion, shall decide whether to direct the Trustee to make immediate distribution of such portion of the Fund assets to the persons entitled thereto or to make distribution in the circumstances and contingencies which would have controlled such distributions if there had been no partial termination or permanent discontinuance of contributions.

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ARTICLE XIV

MISCELLANEOUS

14.1 No Diversion of Funds.

It is the intention of the Employer that it shall be impossible for any part of the corpus or income of the Fund to be used for, or diverted to, purposes other than for the exclusive benefit of the Participants or their Beneficiaries, except to the extent that a return of the Employer's contribution is permitted under Section 4.4.

14.2 Liability Limited.

Neither the Employer nor the Administrator, nor any agents, employees, officers, directors or shareholders of any of them, nor the Trustee, nor any other person, shall have any liability or responsibility with respect to this Plan, except as expressly provided herein.

14.3 Facility of Payment.

If the Administrator shall receive evidence satisfactory to it that a Participant or Beneficiary entitled to receive any benefit under the Plan is, at the time when such benefit becomes payable, a minor, or is physically or mentally incompetent to receive such benefit and to give a valid release therefor, and that another person or an institution is then maintaining or has custody of such Participant or Beneficiary and that no guardian, committee or other representative of the estate of such Participant or Beneficiary shall have been duly appointed, the Administrator may direct the Trustee to make payment of such benefit otherwise payable to such Participant or Beneficiary, to such other person or institution, including a custodian under a Uniform Gifts to Minors Act, or corresponding legislation (who shall be an adult, a guardian of the minor or a trust company), and the release of such other person or institution shall be a valid and complete discharge for the payment of such benefit.

14.4 Spendthrift Clause.

Except as permitted by the Act or the Code, including in the case of certain judgments and settlements described in subparagraph (C) of Section 401(a)(13) of the Code, no benefits or other amounts payable under the Plan shall be subject in any manner to anticipation, sale, transfer, assignment, pledge, encumbrance, charge or alienation. If the Administrator determines that any person entitled to any payments under the Plan has become insolvent or bankrupt or has attempted to anticipate, sell, transfer, assign, pledge, encumber, charge or otherwise in any manner alienate any benefit or other amount payable to him under the Plan or that there is any danger of any levy or attachment or other court process or encumbrance on the part of any creditor of such person entitled to payments under the Plan against any benefit or other accounts payable to such person, the Administrator may, at any time, in its discretion, and in accordance with applicable law, direct the Trustee to withhold any or all payments to such person under the Plan and apply the same for the benefit of such person, in such manner and in such proportion as the Administrator may deem proper.

14.5 Benefits Limited to Fund.

All contributions by the Employer to the Fund shall be voluntary, and the Employer shall be under no legal

liability to make any such contributions, except as otherwise provided herein. The benefits of this Plan shall be provided solely by the assets of the Fund, and no liability for the payment of benefits under the Plan or for any loss of assets due to any action or inaction of the Trustee shall be imposed upon the Employer.

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14.6 Cooperation of Parties.

All parties to this Plan and any party claiming interest hereunder agree to perform any and all acts and execute any and all documents and papers which are necessary and desirable for carrying out this Plan or any of its provisions.

14.7 Payments Due Missing Persons.

The Administrator shall direct the Trustee to make a reasonable effort to locate all persons entitled to benefits under the Plan; however, notwithstanding any provision in the Plan to the contrary, if, after a period of 5 years from the date such benefit shall be due, any such persons entitled to benefits have not been located, their rights under the Plan shall stand suspended. Before this provision becomes operative, the Trustee shall send a certified letter to all such persons at their last known address advising them that their interest in benefits under the Plan shall be suspended. Any such suspended amounts shall be held by the Trustee for a period of 3 additional years (or a total of 8 years from the time the benefits first became payable), and thereafter such amounts shall be reallocated among current Participants in the same manner that a current contribution would be allocated. However, if a person subsequently makes a valid claim with respect to such reallocated amounts and any earnings thereon, the Plan earnings or the Employer's contribution to be allocated for the year in which the claim shall be paid shall be reduced by the amount of such payment. Any such suspended amounts shall be handled in a manner not inconsistent with regulations issued by the Internal Revenue Service and Department of Labor.

14.8 Governing Law.

This Plan has been executed in the State of California, and all questions pertaining to its validity, construction and administration shall be determined in accordance with the laws of that State, except to the extent superseded by the Act.

14.9 Nonguarantee of Employment.

Nothing contained in this Plan shall be construed as a contract of employment between the Employer and any Employee, or as a right of any Employee to be continued in the employment of the Employer, or as a limitation of the right of the Employer to discharge any of its Employees, with or without cause.

14.10 Counsel.

The Trustee and the Administrator may consult with legal counsel, who may be counsel for the Employer and for the Administrator or the Trustee (as the case may be), with respect to the meaning or construction of this Plan and the Trust Agreement, their respective obligations or duties hereunder, or with respect to any action or proceeding or any question of law, and they shall be fully protected to the extent allowable by law with respect to any action taken or omitted by them in good faith pursuant to the advice of legal counsel.

IN WITNESS WHEREOF, the Sponsor has caused these presents to be executed by its duly authorized officers and its corporate seal to be affixed on this \_\_\_\_ day of \_\_\_\_\_, 2002.

Pacific Trust Bancorp, Inc.

ATTEST:

\_\_\_\_\_  
Secretary

By \_\_\_\_\_  
Chairman and Chief Executive Officer

[Corporate Seal]

End.

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