UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

# FORM 10-K

[X] ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended December 31, 1994
or
[ ] TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Commission file number 1-9861

FIRST EMPIRE STATE CORPORATION
(Exact name of registrant as specified in its charter)

| | |
|---|---|
| New York | 16-0968385 |
| (State of incorporation) | (I.R.S. Employer Identification No.) |
| One M&T Plaza, Buffalo, New York | 14240 |
| (Address of principal executive offices) | (Zip Code) |

Registrant's telephone number, including area code: (716)842-5445

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

| | |
|---|---|
| Common Stock, $5 par value | American Stock Exchange |
| (Title of each class) | (Name of each exchange on which registered) |

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

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

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

Aggregate market value of the Common Stock, $5 par value, held by non-affiliates of the registrant, computed by reference to the closing price as of the close of business on March 6, 1995: $705,543,707.

Number of shares of the Common Stock, $5 par value, outstanding as of the close of business on March 6, 1995: 6,584,881 shares.

Documents Incorporated By Reference:

(1) Portions of the Proxy Statement for the 1995 Annual Meeting of Stockholders of First Empire State Corporation in Part III.

FIRST EMPIRE STATE CORPORATION

FORM 10-K

For the fiscal year ended December 31, 1994

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# PART I

## Item 1. Business.

First Empire State Corporation ("Registrant" or "Parent Company") is a New York business corporation which is registered as a bank holding company under the Bank Holding Company Act of 1956, as amended ("BHCA") and under Article III-A of the New York Banking Law ("Banking Law"). The principal executive offices of the Registrant are located at One M&T Plaza, Buffalo, New York 14240. The Registrant was incorporated in November 1969. The Registrant and its direct and indirect subsidiaries are collectively referred to herein as the "Company". As of December 31, 1994, the Company had consolidated total assets of $10.5 billion, deposits of $8.2 billion and stockholders' equity of $721 million. The Company had 3,792 full-time and 713 part-time employees as of December 31, 1994.

At December 31, 1994, the Registrant had two wholly owned bank subsidiaries conducting business primarily in the State of New York: Manufacturers and Traders Trust Company ("M&T Bank") and The East New York Savings Bank ("East New York").

Since the beginning of 1990, the Company has experienced significant growth through federally-assisted acquisitions of assets and liabilities of failed thrift institutions and through unassisted acquisition transactions involving commercial banks and thrift institutions. In January and September 1990, respectively, M&T Bank, in two federally-assisted transactions, purchased selected assets and assumed selected liabilities of Monroe Savings Bank, FSB, Rochester, New York, and Empire Federal Savings Bank of America, Buffalo, New York, two institutions that had been placed in receivership. In May 1991, M&T Bank and East New York similarly purchased certain assets and assumed certain liabilities of Goldome, a Buffalo, New York savings bank, from the Federal Deposit Insurance Corporation ("FDIC"), as receiver. In July 1992, Central Trust Company and Endicott Trust Company, two banks located in Rochester and Endicott, New York, respectively, were acquired and merged with and into M&T Bank. In December 1994, the Company acquired Ithaca Bancorp, Inc. ("Ithaca Bancorp"), Ithaca, New York, and simultaneously merged Ithaca Bancorp's savings bank subsidiary, Citizens Savings Bank, F.S.B., into M&T Bank. Also, in December 1994, the Company acquired from Chemical Bank selected assets and liabilities associated with seven banking offices in New York State's Hudson Valley region.

The following table summarizes the loans and deposits acquired by the Company in these transactions at the time the transactions were consummated:

Recent Acquisitions and Mergers

| | Loans | Deposits |
|---|---|---|
| | (In billions of dollars) | |
| Monroe Savings Bank, FSB | $0.4 | $0.5 |
| Empire Federal Savings Bank of America | 0.5 | 1.2 |
| Goldome | 1.0 | 2.2 |
| Central Trust Company | 0.8 | 1.0 |
| Endicott Trust Company | 0.2 | 0.3 |
| Ithaca Bancorp, Inc. | 0.4 | 0.3 |
| Hudson Valley banking offices (Chemical) | - | 0.1 |

On March 6, 1995, M&T Bank's mortgage banking subsidiary, M&T Mortgage Corporation ("M&T Mortgage"), acquired Statewide Funding Corporation ("Statewide"), a privately-owned mortgage banking company based near Albany, New York, which had a mortgage servicing portfolio of approximately $1.0 billion as of the acquisition date. Statewide was merged with and into M&T Mortgage on the same date. On February 9, 1995, M&T Bank entered into an agreement to acquire four banking offices from The Chase Manhattan Bank, N.A. Two of the branches are located in Dutchess County, one in Ulster County and one in Niagara County, New York. The branches held approximately $90 million in deposit liabilities as of February 9, 1995.

The Company from time to time considers acquiring additional banks, thrift institutions, branch offices or other businesses, generally within markets currently served or in other nearby markets. The Company has pursued such opportunities in the past, currently continues to actively review different opportunities, including the possibility of major acquisitions, and intends to continue this practice.

## Subsidiaries

M&T Bank is a banking corporation which is incorporated under the laws of the State of New York. M&T Bank is a member of the Federal Reserve System, the FDIC and the Federal Home Loan Bank System. The Parent Company acquired all of the issued and outstanding shares of the capital stock of M&T Bank in December 1969. The stock of M&T Bank represents a major asset of the Parent Company. M&T Bank operates under a charter granted by the State of New York in 1892, and the continuity of its banking business is traced to the organization of the Manufacturers and Traders Bank in 1856. The principal executive offices of M&T Bank are located at One M&T Plaza, Buffalo, New York 14240. As of December 31, 1994, M&T Bank had 141 banking offices located throughout New York State, including 118 in Western New York and in the Southern Tier of New York State, principally in Buffalo, Rochester, Ithaca and Binghampton, 20 banking offices in the Hudson Valley region and one in New York City, plus a branch in Nassau, The Bahamas and representative offices in Albany and Syracuse. As of December 31, 1994, M&T Bank had consolidated total assets of $8.8 billion, deposits of $7.0 billion and stockholder's equity of $583 million. The deposit liabilities of M&T Bank are insured by the FDIC through either its Bank Insurance Fund ("BIF") or its Savings Association Insurance Fund ("SAIF"). Of M&T Bank's $6.7 billion in assessable deposits at December 31, 1994, 82% were assessed as BIF-insured and the remainder as SAIF-insured deposits. As a commercial bank, M&T Bank offers a broad range of financial services to a diverse base of consumers, businesses, professional clients, governmental entities and financial institutions located in its markets. Lending is focused on consumers residing in New York State and on New York-based small and medium-size businesses. M&T Bank also provides other financial services through its operating subsidiaries.

East New York was acquired by the Parent Company in December 1987. East New York, originally organized in 1868, is a New York-chartered capital stock savings bank and a member of the FDIC and of the Federal Home Loan Bank System. The deposit liabilities of East New York are insured by the FDIC through the BIF. The stock of East New York represents a major asset of the Parent Company. The principal executive offices of East New York are located at 2644 Atlantic Avenue, Brooklyn, New York 11207. Its banking business is conducted from 18 banking offices located in New York City and Nassau County, Long Island. As of December 31, 1994, East New York had consolidated total assets of $1.8 billion, deposits of $1.2 billion and stockholder's equity of $124 million. East New York takes deposits from, and offers other banking services to, a diverse base of customers located in its markets. East New York concentrates on making commercial mortgage loans which are secured by income producing properties that are primarily located throughout the metropolitan New York City area, especially apartment buildings and cooperative apartments.

M&T Capital Corporation ("M&T Capital"), a wholly owned subsidiary of M&T Bank, was incorporated as a New York business corporation in January 1968. M&T Capital is a federally-licensed small business investment company operating under the provisions of the Small Business Investment Act of 1958, as amended ("SBIA"). M&T Capital provides equity capital and long-term credit to "small-business concerns", as defined by the SBIA. M&T Capital had assets of $13 million and stockholder's equity of $13 million as of December 31, 1994, and recorded approximately $1.5 million of revenues in 1994. The headquarters of M&T Capital are located at One M&T Plaza, Buffalo, New York.

M&T Credit Corporation ("M&T Credit"), a wholly owned subsidiary of M&T Bank, was incorporated as a New York business corporation in April 1994. M&T Credit is a consumer credit company with headquarters at One M&T Plaza, Buffalo, New York and offices in Pennsylvania. As of December 31, 1994, M&T Credit had assets of $10 million and stockholder's equity of $0.9 million. Revenues from the date of formation through December 31, 1994 were not significant.

M&T Mortgage, the mortgage banking subsidiary of M&T Bank, was incorporated as a New York business corporation in November 1991. M&T Mortgage's principal activities are comprised of the origination of residential mortgage loans and providing mortgage loan servicing to M&T Bank and others. M&T Mortgage maintains branch offices in Ohio, Pennsylvania, Oregon, Utah and Washington. M&T Mortgage had assets of $34 million and stockholder's equity of $24 million as of December 31, 1994, and recorded approximately $19.3 million of revenues during 1994. The headquarters of M&T Mortgage are located at M&T Center, One Fountain Plaza, Buffalo, New York.

M&T Financial Corporation ("M&T Financial"), a New York business corporation, is a wholly owned subsidiary of M&T Bank which specializes in capital-equipment leasing. M&T Financial was formed in October 1985, had assets of $83 million and stockholder's equity of $14 million as of December 31, 1994, and recorded approximately $3.3 million of revenues in 1994. The headquarters of M&T Financial are located at 4925 Main Street, Amherst, New York.

M&T Securities, Inc. ("M&T Securities"), is a wholly owned subsidiary of M&T Bank which was incorporated as a New York business corporation in November 1985. M&T Securities is registered as a broker/dealer under the Securities Exchange Act of 1934, as amended, and provides securities brokerage and investment advisory services. As of December 31, 1994, M&T Securities had assets of $0.9 million and stockholder's equity of $0.5 million. M&T Securities recorded $1.4 million of revenues during 1994. The headquarters of M&T Securities are located at One M&T Plaza, Buffalo, New York.

Highland Lease Corporation ("Highland Lease"), a wholly owned subsidiary of M&T Bank, was incorporated as a New York business corporation in October 1994. Highland Lease is a consumer leasing company with headquarters at One M&T Plaza, Buffalo, New York. As of December 31, 1994, Highland Lease had assets of $9.8 million and stockholder's equity of $7.0 million. Revenues from the date of formation through December 31, 1994 were not significant.

The Registrant and its banking subsidiaries have a number of other special-purpose or inactive subsidiaries. These other subsidiaries represented, individually and collectively, an insignificant portion of the Company's consolidated assets, net income and stockholders' equity at December 31, 1994.

## Lines of Business, Principal Services, Industry Segments and Foreign Operations

Commercial and retail banking, with activities incidental thereto, represents the sole significant line and/or segment of business of the Company. The Company's international activities are discussed in note 14 of Notes to Financial Statements filed herewith in Part II, Item 8, "Financial Statements and Supplementary Data". The only activities that, as a class, contributed 10% or more of the sum of consolidated interest income and other income in each of the last three years were lending and investment securities transactions. The amount of income from such sources during those years is set forth on the Company's Consolidated Statement of Income filed herewith in Part II, Item 8, "Financial Statements and Supplementary Data".

## Supervision and Regulation

The banking industry is subject to extensive state and federal regulation and is undergoing significant change. In 1991, the Federal Deposit Insurance Corporation Improvement Act ("FDICIA") was enacted. FDICIA substantially amended the Federal Deposit Insurance Act ("FDI Act") and certain other statutes. Since FDICIA's enactment, the federal bank regulatory agencies have been adopting regulations to implement its statutory provisions.

The following discussion summarizes certain aspects of the banking laws and regulations that affect the Company. Proposals to change the laws and regulations governing the banking industry are frequently raised in Congress, in the state legislature, and before the various bank regulatory agencies. The likelihood and timing of any changes and the impact such changes might have on the Company are impossible to determine with any certainty. A change in applicable laws or regulations, or a change in the way such laws or regulations are interpreted by regulatory agencies or courts, may have a material impact on the business, operations and earnings of the Company. To the extent that the following information describes statutory or regulatory provisions, it is qualified entirely by reference to the particular statutory or regulatory provision.

## Bank Holding Company Regulation

As a registered bank holding company, the Registrant and its nonbank subsidiaries are subject to supervision and regulation under the BHCA by the Board of Governors of the Federal Reserve System ("Federal Reserve Board") and the New York State Banking Superintendent ("Banking Superintendent"). The Federal Reserve Board requires regular reports from the Registrant and is authorized by the BHCA to make regular examinations of the Registrant and its subsidiaries.

Under the BHCA, the Registrant may not acquire direct or indirect ownership or control of more than 5% of the voting shares of any company, including a bank, without the prior approval of the Federal Reserve Board, except as specifically authorized under the BHCA. The Registrant is also subject to regulation under the Banking Law with respect to certain acquisitions of domestic banks. Under the BHCA, the Registrant, subject to the approval of the Federal Reserve Board, may acquire shares of nonbanking corporations the activities of which are deemed by the Federal Reserve Board to be so closely related to banking or managing or controlling banks as to be a proper incident thereto.

The Federal Reserve Board has enforcement powers over bank holding companies and their nonbanking subsidiaries, among other things, to interdict activities that represent unsafe or unsound practices or constitute violations of law, rule, regulation, administrative orders or written agreements with a federal bank regulator. These powers may be exercised through the issuance of cease-and-desist orders, civil money penalties or other actions.

Under the Federal Reserve Board's statement of policy with respect to bank holding company operations, a bank holding company is required to serve as a source of financial strength to its subsidiary depository institutions and to commit all available resources to support such institutions in circumstances where it might not do so absent such policy. Although this "source of strength" policy has been challenged in litigation, the Federal Reserve Board continues to take the position that it has authority to enforce it. For a discussion of circumstances under which a bank holding company may be required to guarantee the capital levels or performance of its subsidiary banks, see Capital Adequacy, below. The Federal Reserve also has the authority to terminate any activity of a bank holding company that constitutes a serious risk to the financial soundness or stability of any subsidiary depository institution or to terminate its control of any bank or nonbank subsidiaries.

The BHCA currently includes a prohibition against interstate banking which can be overridden by any state which adopts a law that expressly permits out-of-state banking companies to form or acquire banks in such state. The Banking Law currently allows out-of-state banking companies to control New York banks if reciprocal rights are granted to New York banking companies, and also allows a form of reciprocal interstate branching. Most states currently permit New York banking companies to form or acquire banks located within their boundaries.

On September 29, 1994, President Clinton signed into law the Riegle-Neal Interstate Banking Efficiency Act of 1994 (the "Interstate Banking Act"). Generally, the Interstate Banking Act permits, beginning September 29, 1995, bank holding companies to acquire banks in any state; permits, prior to June 1, 1997, a bank to merge with an out-of-state bank and convert any offices into branches of the resulting bank if the home states of both banks expressly permit interstate bank mergers; permits, beginning June 1, 1997, a bank to merge with an out-of-state bank and convert any offices into branches of the resulting bank if both states have not opted out of interstate branching; permits a bank to acquire branches from an out-of-state bank, beginning June 1, 1997, if the law of the state where the branches are located permits the interstate branch acquisition; and permits banks to establish and operate de novo interstate branches whenever the host state opts-in to de novo branching. Bank holding companies and banks seeking to engage in transactions authorized by the Interstate Banking Act must be adequately capitalized and managed.

Bank holding companies and their subsidiary banks are also subject to the provisions of the Community Reinvestment Act of 1977 ("CRA"). Under the terms of the CRA, the Federal Reserve Board (or other appropriate bank regulatory agency) is required, in connection with its examination of a bank, to assess such bank's record in meeting the credit needs of the community served by that bank, including low- and moderate-income neighborhoods. Furthermore, such assessment is also required of any bank that has applied, among other things, to merge or consolidate with or acquire the assets or assume the liabilities of a federally-regulated financial institution, or to open or relocate a branch office. In the case of a bank holding company applying for approval to acquire a bank or bank holding company, the Federal Reserve Board will assess the record of each subsidiary bank of the applicant bank holding company in considering the application. The Banking Law contains provisions similar to the CRA which are applicable to New York-chartered banks.

## Supervision and Regulation of Bank Subsidiaries

The Registrant's banking subsidiaries are subject to regulation, and are examined regularly, by various bank regulatory agencies: M&T Bank by the Federal Reserve Board and the Banking Superintendent and East New York by the FDIC and the Banking Superintendent. The Registrant and its direct nonbanking subsidiaries are affiliates, within the meaning of the Federal Reserve Act, of the Registrant's subsidiary banks and their subsidiaries. As a result, the Registrant's subsidiary banks and their subsidiaries are subject to restrictions on loans or extensions of credit to, purchases of assets from, investments in, and transactions with the Registrant and its direct nonbanking subsidiaries and on certain other transactions with them or involving their securities.

Under the "cross-guarantee" provisions of the FDI Act, insured depository institutions under common control are required to reimburse the FDIC for any loss suffered by either the BIF or SAIF of the FDIC as a result of the default of a commonly controlled insured depository institution or for any assistance provided by the FDIC to a commonly controlled insured depository institution in danger of default. Thus, any insured depository institution subsidiary of the Parent Company could incur liability to the FDIC in the event of a default of another insured depository institution owned or controlled by the Parent Company. The FDIC's claim under the cross-guarantee provisions is superior to claims of stockholders of the insured depository institution or its holding company and to most claims arising out of obligations or liabilities owed to affiliates of the institution, but is subordinate to claims of depositors, secured creditors and holders of subordinated debt (other than affiliates) of the commonly controlled insured depository institution. The FDIC may decline to enforce the cross-guarantee provisions if it determines that a waiver is in the best interest of the BIF or SAIF or both.

## Dividends from Bank Subsidiaries

M&T Bank and East New York are subject, under one or more of the banking laws, to restrictions on the amount and frequency (no more often than quarterly) of dividend declarations. Future dividend payments to the Registrant by its subsidiary banks will be dependent on a number of factors, including the earnings and financial condition of each such bank, and are subject to the limitations referred to in note 17 of Notes to Financial Statements filed herewith in Part II, Item 8, "Financial Statements and Supplementary Data," and to other statutory powers of bank regulatory agencies.

Under FDICIA, an insured depository institution is prohibited from making any capital distribution to its owner, including any dividend, if, after making such distribution, the depository institution fails to meet the required minimum level for any relevant capital measure, including the risk-based capital adequacy and leverage standards discussed below.

## Capital Adequacy

The Federal Reserve Board and the FDIC have adopted risk-based capital adequacy guidelines for bank holding companies and banks under their supervision. Under the guidelines the so-called "Tier 1 capital" and "Total capital" as a percentage of risk-weighted assets and certain off-balance sheet instruments must be at least 4% and 8%, respectively.

The Federal Reserve Board and the FDIC have also imposed a leverage standard to supplement their risk-based ratios. This leverage standard focuses on a banking institution's ratio of Tier 1 capital to average total assets, adjusted for goodwill and certain other items. Under these guidelines, banking institutions that meet certain criteria, including excellent asset quality, high liquidity, low interest rate exposure and good earnings, and that have received the highest regulatory rating must maintain a ratio of Tier 1 capital to total assets of at least 3%. Institutions not meeting these criteria, as well as institutions with supervisory, financial or operational weaknesses, along with those experiencing or anticipating significant growth are expected to maintain a Tier 1 capital to total assets ratio equal to at least 4 to 5%.

As reflected in the following table, the risk-based capital ratios and leverage ratios of the Registrant, M&T Bank and East New York as of December 31, 1994 exceeded the risk-based capital adequacy guidelines and the leverage standard.

Capital Components and Ratios at December 31, 1994
(dollars in millions)

| | Registrant (Consolidated) | M&T Bank | East New York |
|---|---|---|---|
| Capital Components | | | |
| Tier 1 capital | $ 748 | $ 602 | $ 131 |
| Total capital | 930 | 766 | 149 |
| Risk-weighted assets and off-balance sheet instruments | $8,398 | $6,973 | $1,429 |
| Risk-based Capital Ratio | | | |
| Tier 1 capital | 8.91% | 8.64% | 9.13% |
| Total capital | 11.07 | 10.98 | 10.40 |
| Leverage Ratio | 7.31 | 6.92 | 7.53 |

FDICIA required each federal banking agency, including the Federal Reserve Board, to revise its risk-based capital standards within 18 months of the enactment of the statute into law on December 19, 1991 in order to ensure that those standards take adequate account of interest rate risk, concentration of credit risk and the risk of nontraditional activities, as well as reflect the actual performance and expected risk of loss on certain multifamily housing loans.

In September 1993, the federal banking agencies issued proposed rules whereby exposure to interest rate risk would be measured as the effect that a specified change in market interest rates would have on the net economic value of a bank. This economic perspective considers the effect that changing market interest rates may have on the value of a bank's assets, liabilities, and off-balance-sheet positions. The banking agencies propose to measure an institution's exposure using either a standardized, supervisory model or each bank's own internal model. In either case, the results could be used in one of two ways when assessing capital adequacy for interest rate risk. One approach would be to reduce an institution's risk-based capital ratios by an amount based on the level of measured risk. The other would be to use the measured exposure as only one of several factors in assessing the need for capital.

On December 29, 1993, the Federal Reserve Board amended the risk-based capital guidelines, effective December 31, 1993, lowering from 100 percent to 50 percent the risk weight assigned to certain multifamily housing loans.

On December 7, 1994, the Federal Reserve Board adopted a final rule, effective December 31, 1994, providing that institutions regulated by the Federal Reserve Board could net for risk-based capital purposes the positive and negative market values of interest and exchange rate contracts subject to a qualifying, legally enforceable, bilateral netting contract to calculate one current exposure for that netting contract.

On December 8, 1994, the Federal Reserve Board amended its risk-based capital guidelines effective December 31, 1994, directing institutions to generally not include in regulatory capital the "net unrealized holding gains (losses) on securities available for sale", determined pursuant to the provisions of Statement of Financial Accounting Standards No. 115, "Accounting for Certain Investments in Debt and Equity Securities", when preparing financial statements in accordance with Generally Accepted Accounting Principles. Net unrealized losses on marketable equity securities (i.e., equity securities with readily determinable fair values), however, continue to be deducted from Tier 1 capital. This rule has the general effect of valuing available for sale securities at amortized cost (i.e., based on historical cost), rather than at fair value (i.e., generally at market value), for purposes of calculating the risk-based and leverage ratios.

On December 15, 1994, the Federal Reserve Board issued a final rule, effective January 17, 1995, addressing concentration of credit risk and risks of nontraditional activities. Accordingly, risk-based capital guidelines were amended to explicitly cite concentrations of credit risk and an institution's ability to monitor and control them as important factors in assessing an institution's overall capital adequacy. Institutions identified through the examination process as having significant exposure to concentration of credit risk or as not adequately managing concentration risk will be required to hold capital in excess of the regulatory minimums. The risk-based capital guidelines were further amended to explicitly cite the risks arising from nontraditional activities and management's ability to monitor and control these risks as important factors to consider in assessing an institution's overall capital adequacy. The rule requires that as banking institutions begin to engage in, or significantly expand their participation in, a nontraditional activity, the risks of that activity be promptly analyzed and the activity given appropriate capital treatment by the agencies.

On December 22, 1994, the Federal Reserve Board revised its capital adequacy guidelines, effective April 1, 1995, to establish a limitation on the amount of certain deferred tax assets that may be included in (that is, not deducted from) Tier 1 capital for purpose of risk-based capital and leverage ratios. Under the revised guidelines, deferred tax assets that can only be realized if an institution earns taxable income in the future are limited for regulatory capital purposes to the amount that the institution expects to realize, based on projections of taxable income, within one year of each quarter-end report date or 10 percent of Tier 1 capital, whichever is less.

Bank regulators continue to propose amendments to the risk-based capital guidelines and related regulatory framework. While the Company's management studies such proposals, the timing of adoption, ultimate form and effect of such proposed amendments on the Company's capital requirements and operations cannot be predicted.

FDICIA requires the federal banking agencies to take "prompt corrective action" in respect of depository institutions that do not meet minimum capital requirements. FDICIA established five capital tiers: "well capitalized", "adequately capitalized", "undercapitalized", "significantly undercapitalized" and "critically undercapitalized". A depository institution's capital tier depends upon where its capital levels are in relation to various relevant capital measures, including a risk-based capital measure and a leverage ratio capital measure, and certain other factors.

Under the implementing regulations adopted by the federal banking agencies, a bank is considered "well capitalized" if it has (i) a total risk-based capital ratio of 10% or greater, (ii) a Tier 1 risk-based capital ratio of 6% or greater, (iii) a leverage ratio of 5% or greater and (iv) is not subject to any order or written directive to meet and maintain a specific capital level for any capital measure. An "adequately capitalized" bank is defined as one that has (i) a total risk-based capital ratio of 8% or greater, (ii) a Tier 1 risk-based capital ratio of 4% or greater and (iii) a leverage ratio of 4% or greater (or 3% or greater in the case of a bank with a composite CAMEL rating of 1). A bank is considered (A) "undercapitalized" if it has (i) a total risk-based capital ratio of less than 8%, (ii) a Tier 1 risk-based capital ratio of less than 4% or (iii) a leverage ratio of less than 4% (or 3% in the case of a bank with a composite CAMEL rating of 1); (B) "significantly undercapitalized" if the bank has (i) a total risk-based capital ratio of less than 6%, or (ii) a Tier 1 risk-based capital ratio of less than 3% or (iii) a leverage ratio of less than 3% and (C) "critically undercapitalized" if the bank has a ratio of tangible equity to total assets equal to or less than 2%. The Federal Reserve Board may reclassify a "well capitalized" bank as "adequately capitalized" or subject an "adequately capitalized" or "undercapitalized" institution to the supervisory actions applicable to the next lower capital category if it determines that the bank is in an unsafe or unsound condition or deems the bank to be engaged in an unsafe or unsound practice and not to have corrected the deficiency. M&T Bank and East New York currently meet the definition of "well capitalized" institutions.

"Undercapitalized" depository institutions, among other things, are subject to growth limitations, are prohibited, with certain exceptions, from making capital distributions, are limited in their ability to obtain funding from a Federal Reserve Bank and are required to submit a capital restoration plan. The federal banking agencies may not accept a capital plan without determining, among other things, that the plan is based on realistic assumptions and is likely to succeed in restoring the depository institution's capital. In addition, for a capital restoration plan to be acceptable, the depository institution's parent holding company must guarantee that the institution will comply with such capital restoration plan and provide appropriate assurances of performance. If a depository institution fails to submit an acceptable plan, including if the holding company refuses or is unable to make the guarantee described in the previous sentence, it is treated as if it is "significantly undercapitalized". Failure to submit or implement an acceptable capital plan also is grounds for the appointment of a conservator or a receiver. "Significantly undercapitalized" depository institutions may be subject to a number of additional requirements and restrictions, including orders to sell sufficient voting stock to become adequately capitalized, requirements to reduce total assets and cessation of receipt of deposits from correspondent banks. Moreover, the parent holding company of a significantly undercapitalized depository institution may be ordered to divest itself of the institution or of nonbank subsidiaries of the holding company. "Critically undercapitalized" institutions, among other things, are prohibited from making any payments of principal and interest on subordinated debt, and are subject to the appointment of a receiver or conservator.

FDICIA directs, among other things, that each federal banking agency prescribe standards for depository institutions and depository institution holding companies relating to internal controls, information systems, internal audit systems, loan documentation, credit underwriting, interest rate exposure, asset growth, compensation, a maximum ratio of classified assets to capital, minimum earnings sufficient to absorb losses, a minimum ratio of market value to book value for publicly traded shares and other standards as they deem appropriate. The Federal Reserve Board adopted such standards in 1993.

FDICIA also contains a variety of other provisions that may affect the operations of the Company, including new reporting requirements, regulatory standards for real estate lending, "truth in savings" provisions, limitations on the amount of purchased mortgage servicing rights and purchased credit card relationships includable in Tier 1 capital, and the requirement that a depository institution give 90 days' prior notice to customers and regulatory authorities before closing any branch. FDICIA also contains a prohibition on the acceptance or renewal of brokered deposits by depository institutions that are not "well capitalized" or are "adequately capitalized" and have not received a waiver from the FDIC.

## FDIC Deposit Insurance Assessments

As institutions insured by the BIF and the SAIF, M&T Bank and East New York are subject to FDIC deposit insurance assessments. Under current law the insurance assessment to be paid by BIF-insured institutions shall be specified in a schedule required to be issued by the FDIC that specifies, at semiannual intervals, target reserve ratios designed to increase the reserve ratio to 1.25% of estimated insured deposits (or such higher ratio as the FDIC may determine in accordance with the statute) no later than 2006. The FDIC is also authorized to impose one or more special assessments in any amounts deemed necessary to enable repayment of amounts borrowed by the FDIC from the Treasury Department. On September 15, 1992, the FDIC approved the implementation of a risk-based deposit premium assessment system under which each depository institution is placed in one of nine assessment categories based on the institution's capital classification under the prompt corrective action provisions described above, and whether such institution is considered by its supervisory agency to be financially sound or to have supervisory concerns. The assessment rates under the system range from .23% to .31% depending upon the assessment category into which the insured institution is placed. The risk-based assessment system became effective January 1, 1993. In early 1995, the FDIC announced that it was considering a proposal to reduce the low end of the deposit assessment range that banks pay to the BIF to .04%. The final form, likelihood or timing of adoption and implementation of such proposal cannot be determined. Despite the announcement of this proposal, the FDIC retains the ability to increase BIF assessments and to levy special additional assessments. Moreover, the FDIC is not currently considering any reduction in SAIF assessments.

With respect to deposit insurance assessments on SAIF-insured deposits at M&T Bank (which represent approximately 18% of its total assessed deposit liabilities), under current law such assessments must be the greater of .15% of M&T Bank's average assessment base (as defined) or such rate as the FDIC at its sole discretion determines to be appropriate to increase (or maintain) the reserve ratio to 1.25% of estimated insured deposits (or such higher ratio as the FDIC may determine in accordance with the statute) within a reasonable period of time. From January 1, 1994 through December 31, 1997 the assessment rate must not be less than .18% of the institution's average assessment base. The assessment rate may be higher if the FDIC, in its sole discretion, determines such higher rate to be appropriate. Effective January 1, 1993, the risk-based deposit premium assessment system described above was made applicable to SAIF-insured deposits.

A significant increase in the assessment rate or a special additional assessment with respect to insured deposits could have an adverse impact on the results of operations and capital of M&T Bank or East New York.

## Governmental Policies

The earnings of the Company are significantly affected by the monetary and fiscal policies of governmental authorities, including the Federal Reserve Board. Among the instruments of monetary policy used by the Federal Reserve Board to implement these objectives are open-market operations in U.S. Government securities and Federal funds, changes in the discount rate on member bank borrowings and changes in reserve requirements against member bank deposits. These instruments of monetary policy are used in varying combinations to influence the overall level of bank loans, investments and deposits, and the interest rates charged on loans and paid for deposits. The Federal Reserve Board frequently uses these instruments of monetary policy, especially its open-market operations and the discount rate, to influence the level of interest rates and to affect the strength of the economy, the level of inflation or the price of the dollar in foreign exchange markets. The monetary policies of the Federal Reserve Board have had a significant effect on the operating results of banking institutions in the past and are expected to continue to do so in the future. It is not possible to predict the nature of future changes in monetary and fiscal policies, or the effect which they may have on the Company's business and earnings.

## Competition

The Company competes in offering commercial and personal financial services with other banking institutions and with firms in a number of other industries, such as thrift institutions, credit unions, personal loan companies, sales finance companies, leasing companies, securities brokers and dealers, insurance companies and retail merchandising organizations. Furthermore, diversified financial services companies are able to offer a combination of these services to their customers on a nationwide basis. Compared to less extensively regulated financial services companies, the Company's operations are significantly impacted by state and federal regulations applicable to the banking industry.

As described in Bank Holding Company Regulation above, the Banking Law allows out-of-state banking companies to control New York banks if reciprocal rights are granted to New York banking companies. No such reciprocity is required of foreign banking companies. Most states permit New York banking companies to form or acquire banks located within their boundaries. Moreover, the provisions of the Interstate Banking Act may further ease entry into New York State by out-of-state banking institutions. As a result, the number of banking organizations with which the Registrant's subsidiary banks compete may grow in the future.

## Other Legislative Initiatives

From time to time, various proposals are introduced in the United States Congress and in the New York Legislature and before various bank regulatory authorities which would alter the powers of, and restrictions on, different types of banking organizations and which would restructure part or all of the existing regulatory framework for banks, bank holding companies and other financial institutions.

Moreover, a number of other bills have been introduced in Congress which would further regulate, deregulate or restructure the financial services industry. It is not possible to predict whether these or any other proposals will be enacted into law or, even if enacted, the effect which they may have on the Company's business and earnings.

## Statistical Disclosure Pursuant to Guide 3

See cross-reference sheet for disclosures incorporated elsewhere in this Annual Report on Form 10-K. Additional information is included in the following tables.

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

Item 1, Table 1

SELECTED CONSOLIDATED YEAR-END BALANCES

| Dollars in thousands | 1994 | 1993 | 1992 | 1991 | 1990 |
|---|---|---|---|---|---|
| Money-market assets | | | | | |
| Interest-bearing deposits at banks | $ 143 | 55,044 | 110,041 | - | 403,373 |
| Federal funds sold and resell agreements | 3,080 | 329,429 | 312,461 | 67,351 | 65,532 |
| Trading account | 5,438 | 9,815 | 53,515 | 42,957 | 125,268 |
| Total money-market assets | 8,661 | 394,288 | 476,017 | 110,308 | 594,173 |
| Investment securities | | | | | |
| U.S. Treasury and federal agencies | 999,407 | 1,387,395 | 916,621 | 1,725,604 | 1,125,794 |
| Obligations of states and political subdivisions | 55,787 | 49,230 | 53,789 | 128,409 | 164,096 |
| Other | 735,846 | 992,527 | 750,154 | 731,973 | 133,327 |
| Total investment securities | 1,791,040 | 2,429,152 | 1,720,564 | 2,585,986 | 1,423,217 |
| Loans and leases | | | | | |
| Commercial, financial, leasing, etc. | 1,680,415 | 1,510,205 | 1,478,555 | 1,068,606 | 1,136,590 |
| Real estate - construction | 53,535 | 51,384 | 35,831 | 30,895 | 37,799 |
| Real estate - mortgage | 5,046,937 | 4,540,177 | 4,422,730 | 4,091,414 | 3,403,105 |
| Consumer | 1,666,230 | 1,337,293 | 1,211,401 | 1,015,722 | 924,575 |
| Total loans and leases | 8,447,117 | 7,439,059 | 7,148,517 | 6,206,637 | 5,502,069 |
| Unearned discount | (229,824) | (177,960) | (164,713) | (160,083) | (129,176) |
| Allowance for possible credit losses | (243,332) | (195,878) | (151,690) | (100,265) | (74,982) |
| Loans and leases, net | 7,973,961 | 7,065,221 | 6,832,114 | 5,946,289 | 5,297,911 |
| Other real estate owned | 10,065 | 12,222 | 16,694 | 10,354 | 5,655 |
| Total assets | 10,528,644 | 10,364,958 | 9,587,931 | 9,171,066 | 7,715,385 |
| Demand deposits | 1,087,102 | 1,052,258 | 1,078,690 | 655,876 | 622,490 |
| NOW accounts | 748,199 | 764,690 | 770,618 | 683,732 | 482,029 |
| Savings deposits | 3,098,438 | 3,364,983 | 3,573,717 | 2,841,590 | 1,708,383 |
| Time deposits | 3,106,723 | 1,982,272 | 2,536,309 | 3,066,897 | 3,216,476 |
| Deposits at foreign office | 202,611 | 189,058 | 117,776 | 226,229 | 171,632 |
| Total deposits | 8,243,073 | 7,353,261 | 8,077,110 | 7,474,324 | 6,201,010 |
| Short-term borrowings | 1,364,850 | 2,101,667 | 692,691 | 1,022,430 | 971,817 |
| Long-term borrowings and capital leases | 96,187 | 75,590 | 75,685 | 9,477 | 3,205 |
| Total liabilities | 9,807,648 | 9,640,964 | 8,961,136 | 8,635,291 | 7,278,173 |
| Stockholders' equity | 720,996 | 723,994 | 626,795 | 535,775 | 437,212 |

STOCKHOLDERS, EMPLOYEES AND OFFICES

| Number at year-end | 1994 | 1993 | 1992 | 1991 | 1990 |
|---|---|---|---|---|---|
| Stockholders | 3,981 | 3,985 | 4,157 | 4,346 | 4,579 |
| Employees | 4,505 | 4,400 | 4,275 | 3,338 | 2,928 |
| Banking offices | 168 | 145 | 151 | 115 | 114 |

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

Item 1, Table 2

CONSOLIDATED EARNINGS

| Dollars in thousands | 1994 | 1993 | 1992 | 1991 | 1990 |
|---|---|---|---|---|---|
| Interest income | | | | | |
| Loans and leases, including fees | $ 633,077 | 608,473 | 602,932 | 592,395 | 522,455 |
| Money-market assets | | | | | |
| Deposits at banks | 2,212 | 6,740 | 1,083 | 7,864 | 18,424 |
| Federal funds sold and resell agreements | 4,751 | 20,403 | 18,100 | 5,322 | 7,689 |
| Trading account | 361 | 1,242 | 2,927 | 15,716 | 5,151 |
| Investment securities | | | | | |
| Fully taxable | 104,185 | 101,187 | 125,529 | 138,808 | 95,398 |
| Exempt from federal taxes | 2,760 | 2,584 | 5,906 | 9,292 | 8,351 |
| Total interest income | 747,346 | 740,629 | 756,477 | 769,397 | 657,468 |
| Interest expense | | | | | |
| NOW accounts | 11,286 | 13,113 | 16,544 | 27,418 | 24,190 |
| Savings deposits | 84,804 | 90,392 | 110,142 | 123,468 | 70,857 |
| Time deposits | 97,067 | 98,508 | 153,588 | 242,684 | 247,284 |
| Deposits at foreign office | 5,894 | 3,243 | 4,348 | 9,014 | 12,008 |
| Short-term borrowings | 73,868 | 58,459 | 38,386 | 36,972 | 72,088 |
| Long-term borrowings and capital leases | 6,287 | 6,158 | 590 | 659 | 501 |
| Total interest expense | 279,206 | 269,873 | 323,598 | 440,215 | 426,928 |
| Net interest income | 468,140 | 470,756 | 432,879 | 329,182 | 230,540 |
| Provision for possible credit losses | 60,536 | 79,958 | 84,989 | 63,412 | 27,412 |
| Net interest income after provision for possible credit losses | 407,604 | 390,798 | 347,890 | 265,770 | 203,128 |
| Other income | | | | | |
| Trust income | 22,574 | 23,865 | 16,905 | 11,847 | 9,696 |
| Service charges on deposit accounts | 35,016 | 32,291 | 28,372 | 20,688 | 17,427 |
| Merchant discount and other credit card fees | 8,705 | 7,932 | 6,728 | 5,776 | 5,887 |
| Trading account gains | 700 | 2,702 | 1,684 | 5,015 | 284 |
| Gain on sales of bank investment securities | 128 | 870 | 28,050 | 450 | 4 |
| Gain on sales of venture capital investments | 802 | 2,896 | 3,230 | 2,064 | 727 |
| Other revenues from operations | 55,814 | 39,988 | 41,257 | 31,846 | 18,713 |
| Total other income | 123,739 | 110,544 | 126,226 | 77,686 | 52,738 |
| Other expense | | | | | |
| Salaries and employee benefits | 161,221 | 154,340 | 130,751 | 103,201 | 85,884 |
| Equipment and net occupancy | 49,132 | 47,823 | 41,659 | 33,350 | 28,617 |
| Printing, postage and supplies | 13,516 | 13,021 | 13,111 | 10,727 | 7,603 |
| Deposit insurance | 16,442 | 17,684 | 17,783 | 15,222 | 6,680 |
| Other costs of operations | 96,551 | 94,951 | 108,034 | 66,161 | 42,349 |
| Total other expense | 336,862 | 327,819 | 311,338 | 228,661 | 171,133 |
| Income before income taxes | 194,481 | 173,523 | 162,778 | 114,795 | 84,733 |
| Income taxes | 77,186 | 71,531 | 64,841 | 47,601 | 30,791 |
| Net income | $ 117,295 | 101,992 | 97,937 | 67,194 | 53,942 |
| Dividends declared | | | | | |
| Common | $ 14,743 | 13,054 | 10,780 | 9,344 | 8,275 |
| Preferred | 3,600 | 3,600 | 3,600 | 2,860 | - |

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

Item 1, Table 3

COMMON SHAREHOLDER DATA

| | 1994 | 1993 | 1992 | 1991 | 1990 |
|---|---|---|---|---|---|
| Per Share | | | | | |
| Net income | $16.35 | 13.87 | 13.41 | 9.32 | 7.91 |
| Cash dividends declared | 2.20 | 1.90 | 1.60 | 1.40 | 1.25 |
| Stockholders' equity at year-end | 103.02 | 99.43 | 85.79 | 73.91 | 65.94 |
| Dividend pay out ratio | 12.97 % | 13.27 % | 11.43 % | 14.52 % | 15.34 % |

Item 1, Table 4

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

CHANGES IN INTEREST INCOME AND EXPENSE*

| Increase (decrease) in thousands | 1994 compared with 1993 Total change | Resulting from changes in: Volume | Rate | 1993 compared with 1992 Total change | Resulting from changes in: Volume | Rate |
|---|---|---|---|---|---|---|
| Interest income | | | | | | |
| Loans and leases, including fees | $ 24,416 | 38,266 | (13,850) | $ 5,407 | 36,814 | (31,407) |
| Money-market assets | | | | | | |
| Deposits at banks | (4,528) | (6,055) | 1,527 | 5,657 | 5,716 | (59) |
| Federal funds sold and agreements to resell securities | (15,652) | (20,432) | 4,780 | 2,303 | 3,392 | (1,089) |
| Trading account | (935) | (1,083) | 148 | (1,662) | (1,504) | (158) |
| Investment securities | | | | | | |
| U.S. Treasury and federal agencies | (5,735) | (6,451) | 716 | (19,520) | 6,139 | (25,659) |
| Obligations of states and political subdivisions | 472 | 747 | (275) | (5,522) | (4,232) | (1,290) |
| Other | 8,682 | 972 | 7,710 | (4,163) | 8,384 | (12,547) |
| Total interest income | $ 6,720 | | | $ (17,500) | | |
| Interest expense | | | | | | |
| Interest-bearing deposits | | | | | | |
| NOW accounts | $ (1,827) | (28) | (1,799) | $ (3,431) | 1,849 | (5,280) |
| Savings deposits | (5,588) | (5,848) | 260 | (19,750) | 5,124 | (24,874) |
| Time deposits | (1,441) | (3,099) | 1,658 | (55,080) | (26,143) | (28,937) |
| Deposits at foreign office | 2,651 | 1,146 | 1,505 | (1,105) | (321) | (784) |
| Short-term borrowings | 15,409 | (4,856) | 20,265 | 20,073 | 24,774 | (4,701) |
| Long-term borrowings | 129 | 135 | (6) | 5,568 | 5,581 | (13) |
| Total interest expense | $ 9,333 | | | $ (53,725) | | |

* Interest income data are on a taxable-equivalent basis. The apportionment of changes resulting from the combined effect of both volume and rate was based on the separately determined volume and rate changes.

## Item 2. Properties.

Both the Parent Company and M&T Bank maintain their executive offices at One M&T Plaza in Buffalo, New York. This twenty-one story headquarters building, containing approximately 276,000 rentable square feet of space, is owned in fee by M&T Bank, and was completed in 1967 at a cost of approximately $17 million. The Parent Company, M&T Bank and their subsidiaries occupy approximately 69% of the building and the remainder is leased to non-affiliated tenants. At December 31, 1994, the cost of this property, net of accumulated depreciation, was $10.5 million.

In September 1992, M&T Bank acquired an additional facility in Buffalo, New York with approximately 346,000 rentable square feet of space at a cost of approximately $12 million. Approximately 70% of this facility, known as M&T Center, is occupied by M&T Bank and its subsidiaries, with the remainder leased to non-affiliated tenants. At December 31, 1994, the cost of this building, including improvements made subsequent to acquisition and net of accumulated depreciation, was $16.8 million.

M&T Bank also owns and occupies two separate facilities in the Buffalo area which support certain back-office and operations functions of the Company. The total square footage of these facilities approximates 223,000 square feet and their combined cost, net of accumulated depreciation, was $13.0 million.

The cost, net of accumulated depreciation and amortization, of the Company's premises and equipment is detailed in note 6 of Notes to Financial Statements filed herewith in Part II, Item 8, "Financial Statements and Supplementary Data". Of the 159 domestic banking offices of the Registrant's subsidiary banks, 56 are owned in fee and 103 are leased.

## Item 3. Legal Proceedings.

A number of lawsuits were pending against the Registrant and its subsidiaries at December 31, 1994. In the opinion of management, the potential liabilities, if any, arising from such litigation will not have a materially adverse impact on the Company's consolidated financial condition. Moreover, management believes that the Company has substantial defenses in such litigation, but there can be no assurance that the potential liabilities, if any, arising from such litigation will not have a materially adverse impact on the Company's consolidated results of operations in the future.

## Item 4. Submission of Matters to a Vote of Security Holders. Not applicable

## Executive Officers of the Registrant

Information concerning the Registrant's executive officers is presented below as of March 6, 1995. Shown parenthetically is the year since which the officer has held the indicated position with the Registrant or its subsidiaries. In the case of each such corporation, officers' terms run until the first meeting of the board of directors after such corporation's annual meeting, and until their successors are elected and qualified.

Robert G. Wilmers, age 60, is chairman of the board (1994), president (1988), chief executive officer (1983) and a director (1982) of the Registrant. He is chairman of the board, president and chief executive officer (1983) and a director (1982) of M&T Bank. Mr. Wilmers is a director of East New York (1988) and M&T Financial (1985).

William A. Buckingham, age 52, is an executive vice president (1990) of the Registrant and of M&T Bank and is in charge of its Retail Banking Division. Mr. Buckingham is a director of M&T Securities. Mr. Buckingham held a number of management positions with Manufacturers Hanover Trust Company from 1973 to 1990, including the position of executive vice president of its branch banking division which he held immediately prior to joining the Registrant and M&T Bank.

Atwood Collins, III, age 48, is the president, chief executive officer and a director (1995) of East New York. Previously, Mr. Collins served as executive vice president and chief operating officer of East New York (1988). Mr. Collins held a number of management positions with Morgan Guaranty Trust Company of New York from 1972 to 1988, including the position of senior vice president and manager of treasury operations which he held immediately prior to joining East New York.

Brian E. Hickey, age 42, is president (1994) of the Rochester Division of M&T Bank and has responsibility for managing all of M&T Bank's business segments in the Rochester market. Before joining M&T Bank, Mr. Hickey served as regional president, Rochester/Southern Region of Marine Midland Bank, which he joined as a regional executive in 1989.

James L. Hoffman, age 55, is president (1992) of the Hudson Valley Division of M&T Bank. Mr. Hoffman served as chairman of the board, president, chief executive officer and a director (1983) of The First National Bank of Highland, which had been a wholly owned subsidiary of the Registrant prior to its merger with and into M&T Bank on February 29, 1992. Mr. Hoffman is a director of M&T Financial (1986). He served as an executive vice president of M&T Bank from 1974 to 1984.

Barbara L. Laughlin, age 50, is an executive vice president (1993) of the Registrant and of M&T Bank (1990), and is in charge of its Technology and Banking Operations Division. Ms. Laughlin was executive vice president of retail banking and technology at The Seamen's Bank for Savings from June 1986 to April 1990 before joining M&T Bank.

William C. Rappolt, age 49, is an executive vice president and treasurer (1993) of the Registrant and M&T Bank (1984) and executive vice president of East New York (1994). Mr. Rappolt is in charge of its Treasury Division. Mr. Rappolt is a director of M&T Financial (1985), and M&T Securities (1985).

Robert E. Sadler, Jr., age 49, is an executive vice president (1990) of the Registrant and of M&T Bank (1983), and is in charge of its Commercial Banking Division. Mr. Sadler is chairman of the board and a director of Highland Lease (1994); chairman of the board (1987) and a director of M&T Capital (1983); chairman of the board and a director of M&T Credit (1994); chairman of the board (1989) and a director of M&T Financial (1985); chairman of the board and a director of M&T Mortgage (1991); and chairman of the board and a director of M&T Securities (1994).

Harry R. Stainrook, age 58, is an executive vice president (1993) of the Registrant and of M&T Bank (1985), and is in charge of M&T Bank's Trust and Investment Services Division. Mr. Stainrook is a director of M&T Securities (1994).

James L. Vardon, age 53, is an executive vice president and chief financial officer (1984) of the Registrant and of M&T Bank, and is in charge of its Finance Division. Mr. Vardon is a director of M&T Capital (1984) and M&T Financial (1985).

# PART II

Item 5. Market for Registrant's Common Equity and Related Stockholder Matters. The Registrant's common stock is traded under the symbol FES on the American Stock Exchange. See cross-reference sheet for disclosures incorporated elsewhere in this Annual Report on Form 10-K for market prices of Registrant's common stock, approximate number of common stockholders at year-end, frequency and amounts of dividends on common stock and restrictions on the payment of dividends.

Item 6. Selected Financial Data. See cross-reference sheet for disclosures incorporated elsewhere in this Annual Report on Form 10-K.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.

## CORPORATE PROFILE AND SIGNIFICANT DEVELOPMENTS

First Empire State Corporation ("First Empire") is a regional bank holding company headquartered in Buffalo, New York with consolidated assets of $10.5 billion at December 31, 1994. First Empire and its consolidated subsidiaries are hereinafter referred to collectively as "the Company". First Empire's banking subsidiaries are Manufacturers and Traders Trust Company ("M&T Bank") and The East New York Savings Bank ("East New York"), both of which are wholly owned. M&T Bank, with $8.8 billion in assets at December 31, 1994, is a New York-chartered commercial bank with 118 offices throughout Western New York and New York's Southern Tier, 20 offices in New York's Hudson Valley region and offices in New York City, Albany, Syracuse and Nassau, The Bahamas. East New York, with $1.8 billion in assets at December 31, 1994, is a New York-chartered savings bank with 18 offices in the New York City metropolitan area.

M&T Bank's subsidiaries include M&T Mortgage Corporation, a mortgage banking company; M&T Securities, Inc., a broker/dealer; M&T Financial Corporation, an equipment leasing company; M&T Capital Corporation, a venture capital company; M&T Credit Corporation, a consumer credit company and Highland Lease Corporation, a consumer leasing company.

On December 1, 1994, First Empire acquired Ithaca Bancorp, Inc. ("Ithaca Bancorp"), Ithaca, New York, in exchange for cash consideration of $19 per common share or approximately $44.2 million. Simultaneously with the acquisition, Ithaca Bancorp's savings bank subsidiary, Citizens Savings Bank, F.S.B., was merged into M&T Bank, bringing twelve banking offices in New York's Southern Tier into M&T Bank's branch network. As of December 1, 1994, assets acquired totaled $470 million, including $369 million of loans, and deposit liabilities assumed were $330 million. Additionally, on December 10, 1994, M&T Bank purchased approximately $146 million of deposits from Chemical Bank along with seven branch offices in the Hudson Valley region of New York State. On February 9, 1995, M&T Bank entered into a definitive agreement to acquire four branches and approximately $90 million in deposits from The Chase Manhattan Bank, N.A. Two of the branches are located in Dutchess County, one in Ulster County and one in Niagara County, New York.

On July 1, 1992, First Empire acquired Central Trust Company of Rochester, New York ("Central Trust"), and Endicott Trust Company of Endicott, New York ("Endicott Trust"), and simultaneously merged them into M&T Bank. The acquisitions added approximately $1.4 billion in assets and $1.3 billion in deposits to the Company's consolidated balance sheet and added 38 banking offices in Western New York and New York's Southern Tier to M&T Bank's branch network on the acquisition date.

The Company has continued to expand its out-of-state network of residential mortgage origination offices operated by M&T Mortgage Corporation. In 1993, offices were opened in Pittsburgh, Pennsylvania and in Cincinnati and Columbus, Ohio. During 1994, offices were opened in three additional locations in Ohio, Cleveland, Dayton and the Akron-Canton area, and in two Pennsylvania locations, Harrisburg and Lancaster. On March 6, 1995, M&T Mortgage Corporation acquired Statewide Funding Corporation ("Statewide"), a privately-held mortgage banking company based near Albany, New York. Statewide has a mortgage servicing portfolio of approximately $1.0 billion and originated more than $400 million of mortgage loans in 1994. Statewide operates five retail offices in New York, one in Massachusetts and one in Vermont, and also a national wholesale lending program.

## OVERVIEW

The Company's net income increased 15% to $117.3 million in 1994, from $102.0 million in 1993, while earnings per common share increased 18% to $16.35 from $13.87 in 1993. Fully diluted earnings per common share, which includes the assumed full conversion of outstanding preferred stock into common stock, was $15.71 in 1994 and $13.42 in 1993, an increase of 17%. Net income was $97.9 million or $13.41 per common share in 1992, while fully diluted earnings per common share was $12.98. The results of operations in 1992 include significant pre-tax securities gains of $28.1 million resulting from management's decision to adjust the Company's holdings of investment securities in response to declining interest rates and the expected decline in economic value of certain securities resulting from prepayment risk. Sales in 1992 were additionally intended to reduce the size of the Company's balance sheet, thereby strengthening capital ratios, in anticipation of the Central Trust and Endicott Trust acquisitions.

The Company achieved a return on average assets of 1.17% in 1994, up from .98% in 1993 and 1.03% in 1992. The return on average common stockholders' equity was 16.64% in 1994, 15.61% in 1993 and 17.39% in 1992. Excluding the effects of securities gains, the return on average assets in 1992 was .86%, while the return on average common stockholders' equity was 14.43%.

Net interest income, adjusted to a fully taxable-equivalent basis for tax-exempt interest income earned on certain loans and investments, decreased 1% in 1994 to $472.2 million, from $474.8 million in 1993. Taxable-equivalent net interest income was $438.6 million in 1992. A $316 million decline in average earning assets in 1994 from 1993 was the major factor in the lower taxable-equivalent net interest income. The net interest margin, or taxable-equivalent net interest income expressed as a percentage of average earning assets, improved 13 basis points in 1994 to 4.89% from 4.76% in 1993. The net interest margin was 4.79% in 1992.

Net charge-offs in 1994 decreased to $16.6 million from $35.8 million in 1993 and $46.3 million in 1992. Nonperforming loans declined to $77.5 million at December 31, 1994 from $82.3 million a year earlier and $113.6 million at year-end 1992. Consistent with declines in the level of net charge-offs and nonperforming loans and generally improving economic conditions in market areas served by the Company, the provision for possible credit losses was decreased to $60.5 million in 1994, compared with $80.0 million in 1993 and $85.0 million in 1992.

In December 1994, First Empire transferred appreciated investment securities with a fair value of $15.7 million to pre-fund an affiliated, tax-exempt private foundation which will utilize these resources over the coming years for charitable purposes. As a result of the transfer, the Company recognized charitable contributions expense and tax-exempt other income of $13.8 million and $10.4 million, respectively, resulting in an after-tax increase in net income of $2.4 million.

Excluding gains on sales of bank investment securities and the effect of the 1994 transfer of securities to the affiliated foundation, noninterest income totaled $113.2 million in 1994, 3% above $109.7 million in 1993 and 15% above $98.2 million in 1992. Excluding $13.8 million of charitable contributions expense associated with the transfer of securities, noninterest expense totaled $323.1 million in 1994, down 1% from $327.8 million in 1993, but up 4% from $311.3 million in 1992.

The December 1994 acquisitions have been accounted for as purchase transactions and, accordingly, the operating results of the acquired entities have been included in the consolidated results of operations of the Company since the respective acquisition dates. The operating results of the acquired entities did not have a significant impact on the Company's results of operations in 1994. The excess of the cost of the acquired entities over the fair value of identifiable assets acquired less liabilities assumed has been recorded as goodwill and amounted to approximately $24 million, which is being amortized on a straight-line basis over five years.

## NET INTEREST INCOME/LENDING AND FUNDING ACTIVITIES

A $316 million decline in average earning assets to $9.7 billion in 1994 from $10.0 billion in 1993 was the major factor contributing to the decline in taxable-equivalent net interest income in 1994 to $472.2 million from $474.8 million in 1993. Taxable-equivalent net interest income and average earning assets in 1992 were $438.6 million and $9.2 billion, respectively. A wider net interest spread, or the difference between the yield on earning assets and the rate paid on interest-bearing liabilities, and a larger benefit from interest-free funds resulted in an improvement in the net interest margin, or taxable-equivalent net interest income expressed as a percentage of average earning assets, to 4.89% in 1994, compared with 4.76% in 1993 and 4.79% in 1992.

During 1994, the Company continued to benefit from a relatively wide net interest spread. The net interest spread was 4.37% in 1994, compared with 4.33% in 1993 and 4.29% in 1992. The improvement in net interest spread in 1994 over 1993 resulted from a favorable shift in the composition of the portfolio of earning assets reflecting a greater proportion of loans and reduced holdings of money-market assets and investment securities. The benefit obtained from increased holdings of loans, which typically yield more than money-market assets and investment securities, was partially offset by the rise in interest expense on short-term borrowings and deposits. The higher proportion of loans and reduced holdings of money-market assets and investment securities resulted in a 31 basis point (hundredth of one percent) increase in 1994 to 7.77% in the yield on earning assets, while the cost of interest-bearing liabilities increased 27 basis points to 3.40%. Rising interest rates had the effect of narrowing the difference between the yield on loans and leases and the rate paid on interest-bearing deposits by 23 basis points in 1994 from 1993. The increase in the net interest spread in 1993 from 1992 resulted from a widening of the spread between the yield on loans and leases and the rate paid on interest-bearing deposits, a then-favorable repercussion of the declining and relatively low interest rates in 1993.

The contribution to net interest margin of interest-free funds rose to .52% in 1994 from .43% in 1993 and .50% in 1992. The improvement in 1994 from 1993 resulted largely from the 27 basis point increase to 3.40% in the rate paid on interest-bearing liabilities used to value these funds, aided by a 7%

increase in average interest-free funds. The 7 basis point reduction in the contribution of interest-free funds in 1993 from 1992 was due to the 90 basis point decline in the rate on interest-bearing liabilities from 4.03%, which more than offset a 22% increase in net interest-free balances. Average interest-free funds were $1.5 billion in 1994, $1.4 billion in 1993 and $1.1 billion in 1992.

The Company has benefited from relatively wide net interest spreads in recent years. Despite significant increases in short-term interest rates throughout 1994, the spread between the prime rate and other money-market rates remained relatively wide in comparison to historic norms. However, rising interest rates in 1994 have resulted in sharp reductions in prepayments of residential mortgage loans, thereby extending the expected lives of such loans, of mortgage-related financial instruments, such as mortgage-backed securities and collateralized mortgage obligations ("CMOs"), and of interest rate swaps indexed to residential mortgage loans. Management believes that further changes in the interest rate environment or reductions in spreads could adversely impact the Company's net interest margin and net interest income. Although not necessarily indicative of a trend, the Company's net interest spread in the fourth quarter of 1994 of 4.15% was below that achieved in any other quarter of 1994.

As part of an overall interest rate risk management program, the Company utilizes interest rate swap agreements to modify, in a cost and capital efficient manner, the repricing characteristics of certain portions of the loan and deposit portfolios. Revenue and expense arising from these agreements are reflected in either the yields earned on loans or, as appropriate, rates paid on interest-bearing deposits.

The effect of interest rate swaps on the Company's net interest income and margin as well as average notional amounts and rates are presented in table 4.

Average loans and leases grew to $7.4 billion in 1994 from $7.0 billion and $6.6 billion in 1993 and 1992, respectively. The acquisition of $369 million of loans of Ithaca Bancorp on December 1, 1994 did not substantially impact average loans and leases in 1994. Improved economic conditions in some market areas served by the Company contributed to increases in 1994 in the outstanding balance of consumer loans, primarily automobile loans, and multi-family commercial real estate loans. In 1993, when sluggish economic conditions in the areas served by the Company restrained loan demand, growth in average loans resulted from the full-year effect of the acquisitions of Central Trust and Endicott Trust on July 1, 1992. Table 5 summarizes by type, average loans and leases outstanding in 1994 and percentage changes in average loans and leases over the past two years.

Loans secured by real estate, excluding home equity lines of credit which are classified as consumer loans, represented approximately 61% of the loan portfolio during 1994, down from 63% in 1993 and 64% in 1992. At December 31, 1994, the Company held approximately $3.4 billion of commercial real estate loans and $1.6 billion of consumer real estate loans.

Commercial real estate loans are originated by the Company predominately in the New York City metropolitan area, including properties in neighboring states generally considered to be within commuting distance of New York City, and Western New York, which includes Buffalo, Niagara Falls, Rochester and surrounding areas. Commercial real estate loans are also originated in the Hudson Valley and Southern Tier regions of New York State. Typical commercial real estate loans originated by the Company are fixed-rate instruments with monthly payments and a balloon payment of the remaining principal at maturity, usually five years after loan origination. For borrowers in good standing, the terms of the loan agreement may be extended for an additional five years at the then-current market rate of interest. Table 6 presents commercial real estate loans at December 31, 1994 by geographic area, type of collateral and size of the loans outstanding. Approximately 58% of the $1.8 billion of commercial real estate loans in the New York City metropolitan area were secured by multi-family residential properties, 23% by office space and 10% by retail space. The Company's experience has been that office space and retail properties tend to demonstrate more volatile fluctuations in value through economic cycles and changing economic conditions. Approximately 55% of the aggregate dollar amount of New York City area loans were for $3 million or less. Commercial real estate loans secured by properties elsewhere in New York State, mostly in Western New York, tend to have a greater diversity of collateral types and include a significant amount of lending to customers who use the mortgaged properties in their trades or businesses. The typical loan in this segment of the portfolio was $3 million or less. Commercial real estate loans secured by properties located outside of New York State and outside of areas of neighboring states considered to be part of the New York City metropolitan area were largely obtained in acquisitions of other financial institutions.

The Company normally refrains from construction lending, except when the borrower has obtained a commitment for permanent financing upon project completion. As a result, the commercial construction loan portfolio totaled only $43.8 million, or .5% of total loans at December 31, 1994.

Of the $1.6 billion of real estate loans secured by one-to-four family residential properties at December 31, 1994, approximately 80% were for properties located in New York State. At the 1994 year-end, residential mortgage loans held for sale totaled $33.4 million. The Company originates residential mortgage loans in its banking offices in New York State, and through offices of M&T Mortgage Corporation, in Ohio and Pennsylvania.

The Company's portfolio of investment securities averaged $2.1 billion in 1994, $2.2 billion in 1993 and $2.0 billion in 1992. Factors influencing the size of the investment securities portfolio include management of balance sheet size and resulting capital ratios; demand for loans, which typically generate higher yields than investment securities; repayments, which have slowed with rising interest rates; the level of deposits and interest rate risk management considerations. The investment securities portfolio is largely comprised of CMOs, other adjustable rate mortgage-backed securities and shorter-term U.S. Treasury notes. When purchasing investment securities, the Company considers its overall interest-rate risk profile and the adequacy of expected returns relative to prepayment and other risks assumed. During December 1994, the Company sold approximately $57 million of investment securities obtained in the acquisition of Ithaca Bancorp. Such sale had no impact on the Company's net income.

The average balance of money-market assets, which are comprised of interest-bearing deposits at banks, trading account assets, Federal funds sold and agreements to resell securities, declined to $166 million in 1994 from $826 million in 1993 and $594 million in 1992. The decline in 1994 from 1993 largely reflects increased demand for loans and the Company's decisions to reduce the size of the balance sheet in order to strengthen capital ratios in anticipation of the 1994 acquisitions and to limit the amount of short-term borrowings, which had been used to fund money-market assets. The increase in average money-market assets during 1993 from 1992 resulted from investment opportunities in various short-term instruments, the relative lack of alternative securities deemed attractive for longer-term investment and sluggish loan demand.

Core deposits, which include noninterest-bearing demand deposits, interest-bearing transaction accounts, savings deposits and domestic time deposits under $100,000, represent a significant source of funding to the Company. Core deposits are commonly generated through the branch network at lower interest rates than wholesale funds of similar maturities. In 1994, average core deposits declined to $6.8 billion from $7.2 billion in 1993 and 1992. Funding provided by core deposits totaled 70% of average earning assets in 1994, compared with 72% in 1993 and 79% in 1992. The December 1994 acquisitions of $442 million of core deposits did not have a significant effect on the average balance of such deposits for 1994. In response to generally lower interest rates, in recent years many depositors sought potentially higher returns by redeploying deposits, primarily time and savings deposits, out of the banking system into alternative investment vehicles, such as mutual funds. However, the Company has been successful in retaining many customer relationships associated with closed deposit accounts by offering alternative investments to customers through M&T Securities, Inc. and through an unaffiliated company renting space in the Company's branches. By mid-year 1995, M&T Securities, Inc. will assume responsibility for sales of mutual funds and other alternative investments from the unaffiliated company. An analysis of changes in the components of core deposits is presented in table 8.

In addition to core deposits, the Company obtains funding through domestic time deposits of $100,000 or more, off-shore deposits originated through the Company's international office and, beginning in the fourth quarter of 1994, a brokered retail certificate of deposit program. Domestic time deposits over $100,000, excluding brokered retail certificates of deposit, averaged $357 million in 1994 compared with $294 million in 1993 and $326 million in 1992. Off-shore deposits, comprised primarily of accounts with balances of $100,000 or more, averaged $156 million in 1994 compared with $120 million and $130 million in 1993 and 1992, respectively. Brokered deposits averaged $45 million in 1994 and totaled $456 million at December 31, 1994. The brokered retail certificate of deposit program was initiated to solicit up to $900 million of deposits as an alternative to short-term borrowings and other wholesale funding sources. The weighted-average remaining term to maturity of brokered deposits at December 31, 1994 was 2.6 years.

The Company also uses short-term borrowings from banks, securities dealers, the Federal Home Loan Bank of New York ("FHLB") and others as sources of funding. Short-term borrowings averaged $1.8 billion in 1994, $1.9 billion in 1993 and $1.1 billion in 1992. In general, short-term borrowings have been used to fund the Company's discretionary investments in money-market assets and investment securities, and to replace deposit outflows.

## PROVISION FOR POSSIBLE CREDIT LOSSES

The purpose of the provision is to replenish and build the Company's allowance for possible credit losses to a level necessary to maintain an adequate reserve position. In assessing the adequacy of the allowance for possible credit losses, management performs an ongoing evaluation of the loan portfolio, including such factors as the differing economic risks associated with each loan category, the current financial condition of specific borrowers, the economic environment in which borrowers operate, the level of delinquent loans and the value of any collateral. Based upon the results of such review, management believes that the allowance for possible credit losses at December 31, 1994 was adequate to absorb credit losses from existing loans, leases and credit commitments.

The provision for possible credit losses was $60.5 million in 1994, a decrease of 24% from $80.0 million in 1993 and 29% from $85.0 million in 1992. Net charge-offs in 1994 decreased to $16.6 million from $35.8 million in 1993 and $46.3 million in 1992. Net charge-offs as a percentage of average loans outstanding were .22% in 1994, .51% in 1993 and .70% in 1992. At December 31, 1994, nonperforming loans totaled $77.5 million, a decline of $4.7 million from a year earlier and $36.1 million from December 31, 1992. The declines in the level of net charge-offs and nonperforming loans, and improved economic conditions in market areas served by the Company were major factors contributing to the lower provision for possible credit losses in 1994. The allowance for possible credit losses was $243.3 million or 2.96% of net loans and leases at December 31, 1994, up from $195.9 million or 2.70% at

December 31, 1993 and $151.7 million or 2.17% at December 31, 1992. The ratio of the allowance to nonperforming loans was 314%, 238% and 134% at year-end 1994, 1993 and 1992, respectively.

A comparative allocation of the allowance for possible credit losses for each of the past five year-ends is presented in table 10. Amounts were allocated to specific loan categories based upon management's classification of loans under the Company's internal loan grading system and estimates of potential charge-offs inherent in each category. However, as the total reserve is available to absorb losses from any loan category, amounts assigned do not necessarily indicate future losses within these categories. The increase in the allocated portion of the reserve in 1994 and 1993 compared with prior years is not indicative of a deterioration of credit quality within the loan portfolio, but rather reflects certain revisions to the assumptions used to calculate the allocated portion of the allowance for possible credit losses. Nevertheless, the unallocated portion of the reserve represents management's assessment of the overall level of credit risk inherent in the loan portfolio over a longer time frame.

The Company's credit loss experience is influenced by many factors, including general economic conditions. However, due to the size of the Company's commercial real estate loan portfolio, the Company's credit loss experience has been and will continue to be significantly affected by real estate valuations, in particular. Nonperforming commercial real estate loans totaled $47.5 million and $48.3 million at December 31, 1994 and 1993, respectively. At December 31, 1994, $27.1 million of nonperforming commercial real estate loans were secured by properties located in the New York City metropolitan area, compared with $29.7 million a year earlier. Net charge-offs of commercial real estate loans were $12.8 million in 1994, $19.2 million in 1993 and $26.0 million in 1992. Included in these totals are net charge-offs of commercial real estate loans secured by properties in the New York City metropolitan area of $11.1 million, $14.2 million and $21.8 million in 1994, 1993, and 1992, respectively.

The Company has limited exposure to possible credit losses originating from concentrations of credit extended to any specific industry. No such concentration exceeded 10% of total loans outstanding at December 31, 1994. Furthermore, the Company had no exposure to less developed countries, and only $1.2 million of foreign loans in total.

Repossessed assets taken in foreclosure of defaulted loans totaled $10.1 million at December 31, 1994, compared with $12.2 million and $16.7 million at the end of 1993 and 1992, respectively.

## OTHER INCOME

Excluding gains on sales of bank investment securities and the effect of the previously noted transfer of securities to an affiliated foundation, other income totaled $113.2 million in 1994, an increase of 3% from $109.7 million in 1993 and 15% from $98.2 million in 1992. Service charges on deposit accounts increased 8% to $35.0 million in 1994 from $32.3 million in 1993. Merchant discount and other credit card fees in 1994 totaled $8.7 million compared with $7.9 million in 1993. Deposit service charges and merchant and credit card revenues were $28.4 million and $6.7 million, respectively, in 1992 when the mid-year acquisitions of Central Trust and Endicott Trust provided only six months of revenue. Trust income of $22.6 million declined 5% from $23.9 million in 1993, largely the result of lower securities clearing revenues. The increase in trust revenues in 1993 from $16.9 million in 1992 was primarily due to the Central Trust and Endicott Trust acquisitions and higher securities clearing revenues. Trading account gains declined to $.7 million in 1994, from $2.7 million in 1993 and $1.7 million in 1992.

Excluding the $10.4 million of tax-exempt income related to the transfer of securities to the affiliated foundation, other revenues from operations increased to $46.2 million in 1994, up from $42.9 million in 1993 and $44.5 million in 1992. The improvement in other revenues in 1994 over the prior two years resulted in part from growth in the Company's residential mortgage servicing business. Residential mortgage loans serviced for others totaled $4.0 billion at December 31, 1994, up from $2.9 billion and $2.2 billion at year-end 1993 and 1992, respectively. Revenues from servicing residential mortgage loans for others were $13.1 million, $10.4 million and $5.9 million in 1994, 1993 and 1992, respectively. Also favorably impacting the year-over-year comparisons were higher loan fees, such as prepayment fees, and asset management revenues, as well as the full-year impact in 1993 of revenues attributable to the mid-1992 acquisitions. The overall decline in other revenues from operations in 1993 from 1992 resulted from lower gains from the sales of out-of-state loans and leases obtained in acquisitions, which totaled $2.8 million in 1993 and $6.0 million in 1992. Additionally, other revenues in 1992 included $2.5 million of non-recurring earnings on options written to sell certain mortgage-backed securities.

## OTHER EXPENSES

Other expenses totaled $336.9 million in 1994, compared with $327.8 million in 1993 and $311.3 million in 1992. As previously noted, other expenses in 1994 included $13.8 million of charitable contributions expense related to the transfer of investment securities to a private, tax-exempt charitable foundation affiliated with the Company. Such expense is included in other costs of operations. Excluding the $13.8 million of expense related to the transfer, other expense in 1994 decreased $4.7 million from 1993.

Salaries and employee benefits expenses were $161.2 million in 1994, an increase of $6.9 million or 4% from $154.3 million in 1993. The rise was due largely to merit salary increases and higher pension and other benefits costs. Personnel costs were $130.8 million in 1992 when only six months of expense associated with the acquired franchises of Central Trust and Endicott Trust were incurred. Growth in the Company's residential mortgage lending and servicing business, as well as merit salary increases and higher pension and other benefits costs were additional factors contributing to the increase in 1993 from 1992. The number of full-time equivalent employees was 4,149 at December 31, 1994, including 185 employees from the December 1994 acquisitions. Full-time equivalent employees totaled 4,028 and 3,959 at December 31, 1993 and 1992, respectively.

Excluding the $13.8 million of contributions expense noted above, nonpersonnel expenses totaled $161.9 million in 1994, $11.6 million or 7% lower than 1993 and $18.7 million or 10% below 1992. Expenses in 1994 for professional services and other real estate owned declined a combined $7.9 million from 1993. Write-downs in the carrying value of excess servicing receivables and purchased mortgage servicing rights associated with residential mortgage loans serviced for others were $.5 million in 1994, compared with $4.7 million in 1993 and $16.8 million in 1992. At December 31, 1994, excess servicing receivables and purchased mortgage servicing rights recorded as assets totaled $17.6 million. Nonpersonnel expense in 1992 included only six months of expenses associated with the Central Trust and Endicott Trust franchises. Also, expenses associated with the project, completed in 1993, to significantly upgrade the Company's major computer systems were approximately $1.0 million in 1993 and $9.2 million in 1992.

## INCOME TAXES

The provision for income taxes in 1994 was $77.2 million, up from $71.5 million in 1993 and $64.8 million in 1992. The effective tax rates were 40% in 1994, 41% in 1993 and 40% in 1992.

As previously noted, in December 1994 First Empire transferred investment securities having a cost and market value of $5.2 million and $15.7 million, respectively, to an affiliated tax-exempt private foundation. The $10.4 million excess of market value over cost is not subject to federal or state income taxes and has been included in other revenues from operations in the consolidated statement of income. The effect of this permanent difference was to decrease income tax expense and the effective tax rate in 1994 by $4.3 million and 2%, respectively, from the amount computed by applying the statutory income tax rates to pre-tax income.

On August 10, 1993, President Clinton signed the Omnibus Budget Reconciliation Act of 1993 into law. As part of the legislation, effective January 1, 1993, the tax rate applied to corporate taxable income in excess of $10 million was increased 1% to 35%. Under generally accepted accounting principles, the effects of the higher tax rate (and other changes made by the legislation) are recognized in determining financial statement income and deferred tax assets and liabilities in the period that includes the date of enactment. Accordingly, the aggregate effect of the legislation was to increase income tax expense and the effective tax rate in 1993 by approximately $792 thousand and .46%, respectively, including a $698 thousand benefit related to years prior to 1993.

## INTERNATIONAL ACTIVITIES

The Company's investment in international assets was $7 million and $62 million at December 31, 1994 and 1993, respectively. Total off-shore deposits were $203 million and $189 million at December 31, 1994 and 1993, respectively.

## LIQUIDITY AND INTEREST RATE SENSITIVITY

As a financial intermediary, the Company creates liquidity risk whenever the maturities of financial instruments included in assets and liabilities differ. As a result, ensuring that sufficient cash flow and liquid assets are available to satisfy demands for loans, deposit withdrawals, operating expenses and other corporate purposes is a critical element in managing a banking institution. Core deposits have historically provided a large source of funds for the Company. Such deposits are generated from a large base of consumer, corporate and institutional customers, which over the past several years has become more geographically diverse. The Company competes with many financial market participants and alternative investment vehicles for deposits and, consistent with banking industry experience in general, has experienced a decline in the proportion of average earning assets funded by core deposits. The decline in average core deposits has been primarily in time and savings deposit accounts as many depositors have transferred funds out of the banking system into mutual funds and other alternative investments. Core deposits financed 71% of the Company's earning assets at December 31, 1994, compared with 68% at December 31, 1993 and 83% at December 31, 1992.

The Company supplements funding from core deposits with various wholesale borrowings, such as Federal funds purchased and securities sold under agreements to repurchase, and the brokered retail certificate of deposit program previously discussed. Additionally, M&T Bank and East New York, have a combined credit facility with the FHLB aggregating $853 million, with any borrowings secured by commercial and residential mortgage loans and investment securities. Borrowings outstanding under such credit facility totaled $249 million at December 31, 1994. Funding is also available through various arrangements for unsecured short-term borrowings from a wide group of banks and other financial institutions which, while informal and sometimes reciprocal, aggregate to several times anticipated funding needs. Other sources of liquidity include maturities of money-market assets and repayments of loans and investment securities. Cash flow generated from operations, such as fees collected for services, also contributes to liquidity.

First Empire's ability to pay dividends, repurchase treasury stock and fund operating expenses is primarily dependent on the receipt of dividends from its banking subsidiaries, which are subject to various regulatory limitations. First Empire also maintains a line of credit with an unaffiliated commercial bank.

Management does not currently anticipate engaging in any activities, in either the short- or long-term, which would cause a significant strain on the liquidity of either First Empire or its subsidiary banks. Furthermore, in the opinion of management, available sources of liquidity are more than adequate to meet anticipated funding needs.

On average, the Company's earning assets reprice more quickly than its interest-bearing liabilities. As a result, the Company's net interest income is subject to the effects of changing interest rates and, in particular, would be negatively impacted in declining interest rate environments. The Company's interest rate risk management program is designed to protect against this risk by limiting the variability of net interest income under differing interest rate scenarios. As part of the interest rate risk management program, the Company has entered into interest rate swap agreements. Information about interest rate swaps entered into for interest rate risk management purposes is included in note 15 of Notes to Financial Statements. The estimated fair value of the interest rate swap portfolio presented in the Notes to Financial Statements results from the effects of changing interest rates and should be considered in the context of the entire balance sheet and the Company's overall interest rate risk profile. Such fair value is not recognized in the consolidated financial statements. The swaps modify the repricing characteristics of certain portions of the Company's loan and deposit portfolios. The carrying values of such loans and deposits are also not adjusted for appreciation or depreciation resulting from changes in interest rates.

In accordance with industry practice, table 15 presents cumulative totals of net assets (liabilities) repricing on a contractual basis within the specified time frames, as adjusted for the impact of interest rate swap agreements entered into for interest rate risk management purposes. Management believes this measure does not appropriately depict interest rate risk since changes in interest rates do not necessarily affect all categories of earning assets and interest-bearing liabilities equally nor, as assumed in the table, on the contractual maturity or repricing date. Furthermore, this static presentation of interest rate risk fails to consider the effect of ongoing lending and deposit gathering activities, projected changes in balance sheet composition or any subsequent interest rate risk management activities the Company is likely to implement.

In management's opinion, the interest rate sensitivity analysis presented in the table does not accurately reflect the Company's actual sensitivity to changes in interest rates. Management monitors the Company's interest rate sensitivity with the aid of a computer model which considers statistically derived interrelationships in the magnitude and timing of the repricing of all financial instrument products, including the effect of changing interest rates on expected prepayments and maturities. Interest rate risk is measured by the variability of net interest income under a number of interest rate scenarios. Management's assessment is that a sustained increase in interest rates would likely have a detrimental effect on net interest income in the coming year. Management closely monitors the Company's exposure to changing interest rates and spreads and stands ready to take action, through the use of on- or off-balance sheet financial instruments, to mitigate such exposure when deemed prudent to do so.

CAPITAL

Common stockholders' equity totaled $681.0 million at December 31, 1994, compared with $684.0 million and $586.8 million at the end of 1993 and 1992, respectively. On a per share basis, common stockholders' equity was $103.02 at December 31, 1994, an increase of 4% from $99.43 at December 31, 1993 and 20% from $85.79 at December 31, 1992. Total stockholders' equity at December 31, 1994 was $721.0 million or 6.85% of total assets, compared with $724.0 million or 6.99% at December 31, 1993 and $626.8 million or 6.54% at December 31, 1992. The ratio of average total stockholders' equity to average total assets was 7.21%, 6.45% and 6.10% in 1994, 1993 and 1992, respectively.

Stockholders' equity at December 31, 1994 included a reduction of $50.6 million, or $7.65 per common share, for the net after-tax impact of unrealized losses on investment securities classified as available for sale pursuant to the provisions of Statement of Financial Accounting Standards ("SFAS") No. 115, "Accounting for Certain Investments in Debt and Equity Securities", which the Company adopted on December 31, 1993. Such unrealized losses represent the amount by which amortized cost exceeded the fair value of such investment securities, net of applicable income taxes. At December 31, 1993, stockholders' equity included $9.1 million, or $1.33 per common share, of net unrealized gains from securities classified as available for sale. The market valuation of investment securities should be considered in the context of the entire balance sheet of the Company. In general, the carrying value of other financial instruments in the balance sheet is not adjusted for appreciation or depreciation resulting from changes in interest rates.

Federal regulators generally require banking institutions to maintain "core capital" and "total capital" ratios of at least 4% and 8%, respectively, of risk-adjusted total assets. In addition to the risk-based measures, Federal bank regulators have also implemented a minimum "leverage" ratio guideline of 3% of the quarterly average of total assets. Under regulatory guidelines, the unrealized gains or losses on investment securities available for sale pursuant to SFAS No. 115 are not recognized in determining regulatory capital. The capital ratios of the Company and its banking subsidiaries, M&T Bank and East New York, as of December 31, 1994 are presented in table 16.

The Company has historically maintained capital ratios well in excess of minimum regulatory guidelines largely through a high rate of internal capital generation. The rate of internal capital generation, or net income (excluding the after-tax effects of gains from sales of investment securities) less dividends paid expressed as a percentage of average total stockholders' equity, rose to 13.67% in 1994 from 12.66% in 1993 and 11.59% in 1992.

Cash dividends on common stock of $14.7 million were paid in 1994 compared with $13.1 million in 1993 and $10.8 million in 1992. In the third quarter of 1994, First Empire's quarterly common stock dividend rate was increased to $.60 per share from $.50. In total, dividends per common share increased to $2.20 in 1994 from $1.90 in 1993. Total dividends per common share were $1.60 in 1992. Dividends of $3.6 million were paid to the preferred stockholder in 1994, 1993 and 1992.

In December 1993, First Empire announced a plan to repurchase and hold as treasury stock up to 506,930 shares of common stock for reissuance upon the possible future conversion of its 9% convertible preferred stock. Such preferred stock is convertible at any time into shares of First Empire's common stock at a conversion price of $78.90625 per share, subject to certain adjustments. First Empire has the right to redeem the preferred stock without premium on or after March 31, 1996. However, upon receipt of notification of such a planned redemption, the holder may convert the preferred stock into common shares. As of December 31, 1994, First Empire had repurchased 298,700 shares pursuant to such plan at an average cost of $147.18. In the fourth quarter the repurchase program was temporarily halted until after completion of the December acquisitions. Repurchases have been resumed in the first quarter of 1995.

RECENTLY ISSUED ACCOUNTING STANDARDS NOT YET ADOPTED

In May 1993, the Financial Accounting Standards Board issued SFAS No. 114 "Accounting by Creditors for Impairment of a Loan". SFAS No. 114 was amended in October 1994. As amended, SFAS No. 114 requires that creditors measure certain impaired loans based on the present value of expected future cash flows discounted at the loan's effective interest rate or at the loan's observable value or the fair value of underlying collateral, if the loan is collateral-dependent. SFAS No. 114 applies to financial statements for fiscal years beginning after December 15, 1994. The Company will adopt SFAS No. 114 in the first quarter of 1995. When adopted, SFAS No. 114 is not expected to have an adverse impact on the Company's results of operations.

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

Table 1

FINANCIAL HIGHLIGHTS

| Amounts in thousands, except per share | 1994 | 1993 | Change |
|---|---|---|---|
| **For the year** | | | |
| Net income | $117,295 | 101,992 | + 15 % |
| Per common share | | | |
| Net income | | | |
| Primary | $16.35 | 13.87 | + 18 |
| Fully diluted | 15.71 | 13.42 | + 17 |
| Cash dividends | 2.20 | 1.90 | + 16 |
| Average common shares outstanding | | | |
| Primary | 6,952 | 7,091 | - 2 |
| Fully diluted | 7,464 | 7,601 | - 2 |
| Return on | | | |
| Average total assets | 1.17 % | .98 % | |
| Average common stockholders' equity | 16.64 % | 15.61 % | |
| Market price per common share | | | |
| Closing | $136.00 | 140.75 | - 3 |
| High | 165.00 | 159.00 | |
| Low | 134.50 | 130.25 | |
| **At December 31** | | | |
| Loans and leases, net of unearned discount | $ 8,217,293 | 7,261,099 | + 13 % |
| Total assets | 10,528,644 | 10,364,958 | + 2 |
| Total deposits | 8,243,073 | 7,353,261 | + 12 |
| Total stockholders' equity | 720,996 | 723,994 | - |
| Stockholders' equity per common share | $103.02 | 99.43 | + 4 |

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

Table 2

QUARTERLY TRENDS

| Taxable-equivalent basis | 1994 Quarters Fourth | Third | Second | First | 1993 Quarters Fourth | Third | Second | First |
|---|---|---|---|---|---|---|---|---|
| **Earnings and dividends** | | | | | | | | |
| Amounts in thousands, except per share | | | | | | | | |
| Interest income | $ 201,543 | 190,555 | 181,171 | 178,160 | 185,550 | 185,069 | 189,417 | 184,673 |
| Interest expense | 83,287 | 72,393 | 64,277 | 59,249 | 66,761 | 66,014 | 69,062 | 68,036 |
| Net interest income | 118,256 | 118,162 | 116,894 | 118,911 | 118,789 | 119,055 | 120,355 | 116,637 |
| Less: provision for possible credit losses | 12,850 | 13,802 | 14,022 | 19,862 | 21,713 | 19,715 | 20,215 | 18,315 |
| Other income | 38,651 | 27,261 | 29,378 | 28,449 | 28,702 | 27,484 | 27,491 | 26,867 |
| Less: other expense | 95,048 | 80,584 | 82,015 | 79,215 | 79,388 | 80,426 | 84,566 | 83,439 |
| Income before income taxes | 49,009 | 51,037 | 50,235 | 48,283 | 46,390 | 46,398 | 43,065 | 41,750 |
| Applicable income taxes | 16,034 | 20,934 | 20,553 | 19,665 | 18,848 | 19,358 | 16,874 | 16,451 |
| Taxable-equivalent adjustment | 1,087 | 1,005 | 1,001 | 990 | 909 | 1,188 | 1,006 | 977 |
| Net income | $ 31,888 | 29,098 | 28,681 | 27,628 | 26,633 | 25,852 | 25,185 | 24,322 |
| Cash dividends on preferred stock | $900 | 900 | 900 | 900 | 900 | 900 | 900 | 900 |
| Per common share data | | | | | | | | |
| Net income | | | | | | | | |
| Primary | $4.53 | 4.09 | 3.96 | 3.77 | 3.62 | 3.52 | 3.42 | 3.31 |
| Fully diluted | 4.35 | 3.93 | 3.80 | 3.64 | 3.50 | 3.40 | 3.31 | 3.21 |
| Cash dividends | .60 | .60 | .50 | .50 | .50 | .50 | .50 | .40 |
| Average common shares outstanding | | | | | | | | |
| Primary | 6,817 | 6,899 | 7,014 | 7,083 | 7,097 | 7,097 | 7,102 | 7,069 |
| Fully diluted | 7,324 | 7,406 | 7,541 | 7,590 | 7,604 | 7,604 | 7,609 | 7,586 |
| **Balance sheet data** | | | | | | | | |
| Dollars in millions, except per share | | | | | | | | |
| Average balances | | | | | | | | |
| Total assets | $ 10,200 | 9,959 | 9,886 | 10,056 | 10,775 | 10,348 | 10,483 | 9,951 |
| Earning assets | 9,869 | 9,620 | 9,515 | 9,665 | 10,371 | 9,947 | 10,070 | 9,527 |
| Investment securities | 1,923 | 1,992 | 2,097 | 2,293 | 2,521 | 2,384 | 2,063 | 1,713 |
| Loans and leases, net of unearned discount | 7,805 | 7,442 | 7,266 | 7,188 | 7,080 | 6,991 | 6,957 | 6,899 |
| Deposits | 7,703 | 7,250 | 7,220 | 7,287 | 7,352 | 7,516 | 7,649 | 7,856 |
| Stockholders' equity | 724 | 715 | 723 | 731 | 703 | 680 | 659 | 638 |
| At end of quarter | | | | | | | | |
| Total assets | $ 10,529 | 10,301 | 10,336 | 10,412 | 10,365 | 10,930 | 10,457 | 10,423 |
| Earning assets | 10,017 | 9,888 | 9,840 | 10,023 | 10,085 | 10,462 | 10,059 | 9,895 |
| Investment securities | 1,791 | 1,889 | 1,985 | 2,153 | 2,429 | 2,523 | 2,526 | 1,726 |
| Loans and leases, net of unearned discount | 8,217 | 7,590 | 7,401 | 7,240 | 7,261 | 7,092 | 7,021 | 6,887 |
| Deposits | 8,243 | 7,362 | 7,276 | 7,329 | 7,353 | 7,538 | 7,591 | 7,788 |
| Stockholders' equity | 721 | 721 | 718 | 725 | 724 | 692 | 670 | 649 |
| Equity per common share | $103.02 | 102.73 | 100.63 | 100.19 | 99.43 | 94.88 | 91.67 | 88.68 |
| **Performance ratios, annualized** | | | | | | | | |
| Return on | | | | | | | | |
| Average assets | 1.24 % | 1.16 % | 1.16 % | 1.11 % | .98 % | .99 % | .96 % | .99 % |
| Average common stockholders' equity | 17.97 % | 16.58 % | 16.32 % | 15.68 % | 15.39 % | 15.46 % | 15.74 % | 15.88 % |
| Net interest margin on average earning assets | 4.75 % | 4.87 % | 4.93 % | 4.99 % | 4.54 % | 4.75 % | 4.79 % | 4.96 % |
| Nonperforming assets to total assets, at end of quarter | .83 % | .91 % | .90 % | .95 % | .91 % | .92 % | 1.01 % | 1.21 % |
| Market price per common share | | | | | | | | |
| High | $ 153 | 165 | 156 1/2 | 144 | 147 | 147 | 159 | 150 1/2 |
| Low | 134 1/2 | 146 | 136 3/4 | 135 | 132 1/4 | 136 1/8 | 133 1/8 | 130 1/4 |
| Closing | 136 | 151 1/2 | 156 1/2 | 139 1/4 | 140 3/4 | 140 3/4 | 137 | 149 3/4 |

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

Table 3

EARNINGS SUMMARY
Dollars in millions

| Increase (decrease)* 1993 to 1994 Amount | % | 1992 to 1993 Amount | % | | 1994 | 1993 | 1992 | 1991 | 1990 | Compound growth rate** 5 years 1989 to 1994 |
|---|---|---|---|---|---|---|---|---|---|---|
| $ 6.7 | 1 | $ (17.5) | (2) | Interest income*** | $ 751.4 | 744.7 | 762.2 | 777.9 | 666.4 | 5 % |
| 9.3 | 3 | (53.7) | (17) | Interest expense | 279.2 | 269.9 | 323.6 | 440.2 | 426.9 | (6) |
| (2.6) | (1) | 36.2 | 8 | Net interest income*** | 472.2 | 474.8 | 438.6 | 337.7 | 239.5 | 19 |
| | | | | Less: provision for possible | | | | | | |
| (19.4) | (24) | (5.0) | (6) | credit losses | 60.5 | 80.0 | 85.0 | 63.4 | 27.4 | 32 |
| | | | | Gain on sales of bank | | | | | | |
| (.7) | (85) | (27.2) | (97) | investment securities | .1 | .9 | 28.1 | .4 | - | - |
| 13.9 | 13 | 11.5 | 12 | Other income | 123.6 | 109.7 | 98.2 | 77.2 | 52.7 | 21 |
| | | | | Less: | | | | | | |
| 6.9 | 4 | 23.6 | 18 | Salaries and employee benefits | 161.2 | 154.3 | 130.8 | 103.2 | 85.9 | 16 |
| 2.1 | 1 | (7.1) | (4) | Other expense | 175.6 | 173.5 | 180.6 | 125.4 | 85.2 | 20 |
| 21.0 | 12 | 9.1 | 5 | Income before income taxes | 198.6 | 177.6 | 168.5 | 123.3 | 93.7 | 18 |
| | | | | Less: | | | | | | |
| - | - | (1.7) | (29) | Taxable-equivalent adjustment*** | 4.1 | 4.1 | 5.8 | 8.5 | 9.0 | (15) |
| 5.7 | 8 | 6.7 | 10 | Income taxes | 77.2 | 71.5 | 64.8 | 47.6 | 30.8 | 25 |
| $ 15.3 | 15 | $ 4.1 | 4 | Net income | $ 117.3 | 102.0 | 97.9 | 67.2 | 53.9 | 18 % |

* Changes were calculated from unrounded amounts.
** Before effect of 1989 change in accounting principle related to postretirement benefits.
*** Interest income data are on a taxable-equivalent basis. The taxable-equivalent adjustment represents additional income taxes that would be due if all interest income were subject to income taxes. This adjustment is primarily to interest received on qualified municipal securities and industrial revenue financings and is based on a composite income tax rate of approximately 43% for 1994, 42% for 1993 and 41% for all other periods.

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

TABLE 4

INTEREST RATE SWAPS

| | Year ended December 31 | | | | | |
|---|---|---|---|---|---|---|
| | 1994 | | 1993 | | 1992 | |
| Dollars in thousands | Amount | Rate* | Amount | Rate* | Amount | Rate* |
| Increase (decrease) in: | | | | | | |
| Interest income | $ 10,463 | .10 % | $ 26,695 | .27 % | $ 17,428 | .19 % |
| Interest expense | (2,018) | (.03) | (7,547) | (.09) | (2,635) | (.03) |
| Net interest income/margin | $ 12,481 | .13 % | $ 34,242 | .34 % | $ 20,063 | .22 % |
| Average notional amount** | $ 1,627,454 | | $ 1,213,886 | | $ 502,452 | |
| Fixed rate received*** | | 5.72 % | | 6.10 % | | 8.10 % |
| Variable rate paid*** | | 4.93 % | | 3.32 % | | 4.08 % |

* Computed as an annualized percentage of average earning assets or interest-bearing liabilities.
** Excludes forward-starting interest rate swaps.
*** Weighted-average rate paid or received on interest rate swaps in effect during year.

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

Table 5

AVERAGE LOANS AND LEASES
(net of unearned discount)

| Dollars in millions | 1994 | Percent increase (decrease) from 1993 to 1994 | 1992 to 1993 |
| --- | --- | --- | --- |
| Commercial, financial, etc. | $1,487 | 5 % | 15 % |
| Real estate - commercial | 3,132 | 9 | 10 |
| Real estate - consumer | 1,430 | (6) | (7) |
| Consumer | 1,378 | 17 | 6 |
| Total | $7,427 | 6 % | 6 % |

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

Table 6

COMMERCIAL REAL ESTATE LOANS
(net of unearned discount)
December 31, 1994

| Dollars in millions | Out-standings | Percent of dollars outstanding by loan size $0-1 | $1-3 | $3-10 | $10+ |
|---|---|---|---|---|---|
| Metropolitan New York City | | | | | |
| Apartments/ Multifamily | $ 1,061.8 | 15 % | 20 % | 18 % | 5 % |
| Office | 412.4 | 3 | 7 | 10 | 3 |
| Retail | 179.6 | 2 | 4 | 3 | 1 |
| Construction | 1.3 | - | - | - | - |
| Industrial | 48.3 | - | 1 | 1 | - |
| Other | 127.9 | 1 | 2 | 3 | 1 |
| Total Metropolitan New York City | $ 1,831.3 | 21 % | 34 % | 35 % | 10 % |
| Other New York State | | | | | |
| Apartments/ Multifamily | $ 278.8 | 8 % | 7 % | 4 % | 1 % |
| Office | 342.6 | 8 | 6 | 8 | 3 |
| Retail | 225.4 | 7 | 5 | 4 | - |
| Construction | 39.3 | 2 | 1 | - | - |
| Industrial | 146.9 | 6 | 3 | 1 | - |
| Other | 358.7 | 12 | 9 | 5 | - |
| Total other New York State | $ 1,391.7 | 43 % | 31 % | 22 % | 4 % |
| Other | | | | | |
| Apartments/ Multifamily | $ 60.2 | 7 % | 21 % | 18 % | - % |
| Office | 2.5 | 2 | - | - | - |
| Retail | 23.9 | 3 | 9 | 7 | - |
| Construction | 3.2 | 1 | 2 | - | - |
| Industrial | 12.1 | 2 | 1 | 6 | - |
| Other | 27.7 | 2 | 7 | 3 | 9 |
| Total other | $ 129.6 | 17 % | 40 % | 34 % | 9 % |
| Total commercial real estate loans | $ 3,352.6 | 30 % | 33 % | 30 % | 7 % |

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

Table 7

AVERAGE BALANCE SHEETS AND TAXABLE-EQUIVALENT RATES

| Average balance in millions; interest in thousands | 1994 Average balance | 1994 Interest | 1994 Average rate | 1993 Average balance | 1993 Interest | 1993 Average rate |
|---|---|---|---|---|---|---|
| Assets | | | | | | |
| Earning assets | | | | | | |
| Loans and leases, net of unearned discount* | | | | | | |
| Commercial, financial, etc. | $ 1,487 | $ 116,479 | 7.84 % | 1,420 | 112,568 | 7.93 % |
| Real estate | 4,562 | 390,681 | 8.56 | 4,387 | 379,832 | 8.66 |
| Consumer | 1,378 | 128,117 | 9.30 | 1,175 | 118,461 | 10.08 |
| Total loans and leases, net | 7,427 | 635,277 | 8.55 | 6,982 | 610,861 | 8.75 |
| Money-market assets | | | | | | |
| Interest-bearing deposits at banks | 48 | 2,212 | 4.58 | 189 | 6,740 | 3.56 |
| Federal funds sold and agreements to resell securities | 109 | 4,751 | 4.35 | 610 | 20,403 | 3.35 |
| Trading account | 9 | 499 | 5.92 | 27 | 1,434 | 5.32 |
| Total money-market assets | 166 | 7,462 | 4.50 | 826 | 28,577 | 3.46 |
| Investment securities | | | | | | |
| U.S. Treasury and federal agencies | 1,167 | 56,685 | 4.86 | 1,300 | 62,420 | 4.80 |
| Obligations of states and political subdivisions | 53 | 3,072 | 5.77 | 41 | 2,600 | 6.40 |
| Other | 852 | 48,933 | 5.74 | 832 | 40,251 | 4.84 |
| Total investment securities | 2,072 | 108,690 | 5.24 | 2,173 | 105,271 | 4.84 |
| Total earning assets | 9,665 | 751,429 | 7.77 | 9,981 | 744,709 | 7.46 |
| Allowance for possible credit losses | (223) | | | (174) | | |
| Cash and due from banks | 307 | | | 304 | | |
| Other assets | 276 | | | 279 | | |
| Total assets | $ 10,025 | | | 10,390 | | |
| Liabilities and stockholders' equity | | | | | | |
| Interest-bearing liabilities | | | | | | |
| Interest-bearing deposits | | | | | | |
| NOW accounts | $ 746 | 11,286 | 1.51 | 747 | 13,113 | 1.75 |
| Savings deposits | 3,274 | 84,804 | 2.59 | 3,500 | 90,392 | 2.58 |
| Time deposits | 2,179 | 97,067 | 4.45 | 2,249 | 98,508 | 4.38 |
| Deposits at foreign office | 156 | 5,894 | 3.79 | 120 | 3,243 | 2.71 |
| Total interest-bearing deposits | 6,355 | 199,051 | 3.13 | 6,616 | 205,256 | 3.10 |
| Short-term borrowings | 1,772 | 73,868 | 4.17 | 1,922 | 58,459 | 3.04 |
| Obligations under capital leases | 1 | 54 | 10.02 | 1 | 64 | 10.06 |
| Other long-term borrowings | 76 | 6,233 | 8.12 | 75 | 6,094 | 8.12 |
| Total interest-bearing liabilities | 8,204 | 279,206 | 3.40 | 8,614 | 269,873 | 3.13 |
| Demand deposits | 1,011 | | | 976 | | |
| Other liabilities | 87 | | | 130 | | |
| Total liabilities | 9,302 | | | 9,720 | | |
| Stockholders' equity | 723 | | | 670 | | |
| Total liabilities and stockholders' equity | $ 10,025 | | | 10,390 | | |
| Net interest spread | | | 4.37 | | | 4.33 |
| Contribution of interest-free funds | | | .52 | | | .43 |
| Net interest income/margin on earning assets | | $ 472,223 | 4.89 % | | 474,836 | 4.76 % |

*Includes nonaccrual loans

(continued)

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

Table 7 (continued)

AVERAGE BALANCE SHEETS AND TAXABLE-EQUIVALENT RATES

| Average balance in millions; interest in thousands | 1992 Average balance | 1992 Interest | 1992 Average rate | 1991 Average balance | 1991 Interest | 1991 Average rate |
|---|---|---|---|---|---|---|
| Assets | | | | | | |
| Earning assets | | | | | | |
| Loans and leases, net of unearned discount* | | | | | | |
| Commercial, financial, etc. | $ 1,237 | $ 103,786 | 8.39 % | 1,067 | 101,717 | 9.53 % |
| Real estate | 4,225 | 392,384 | 9.29 | 3,910 | 389,748 | 9.97 |
| Consumer | 1,109 | 109,284 | 9.85 | 898 | 104,500 | 11.64 |
| Total loans and leases, net | 6,571 | 605,454 | 9.21 | 5,875 | 595,965 | 10.14 |
| Money-market assets | | | | | | |
| Interest-bearing deposits at banks | 29 | 1,083 | 3.76 | 109 | 7,864 | 7.19 |
| Federal funds sold and agreements to resell securities | 510 | 18,100 | 3.55 | 95 | 5,322 | 5.62 |
| Trading account | 55 | 3,096 | 5.62 | 192 | 15,873 | 8.27 |
| Total money-market assets | 594 | 22,279 | 3.75 | 396 | 29,059 | 7.34 |
| Investment securities | | | | | | |
| U.S. Treasury and federal agencies | 1,204 | 81,940 | 6.81 | 1,222 | 109,300 | 8.94 |
| Obligations of states and political subdivisions | 103 | 8,122 | 7.85 | 146 | 13,427 | 9.21 |
| Other | 686 | 44,414 | 6.48 | 357 | 30,194 | 8.47 |
| Total investment securities | 1,993 | 134,476 | 6.75 | 1,725 | 152,921 | 8.87 |
| Total earning assets | 9,158 | 762,209 | 8.32 | 7,996 | 777,945 | 9.73 |
| Allowance for possible credit losses | (130) | | | (91) | | |
| Cash and due from banks | 273 | | | 213 | | |
| Other assets | 253 | | | 227 | | |
| Total assets | $ 9,554 | | | 8,345 | | |
| Liabilities and stockholders' equity | | | | | | |
| Interest-bearing liabilities | | | | | | |
| Interest-bearing deposits | | | | | | |
| NOW accounts | $ 666 | 16,544 | 2.48 | 576 | 27,418 | 4.76 |
| Savings deposits | 3,338 | 110,142 | 3.30 | 2,395 | 123,468 | 5.16 |
| Time deposits | 2,773 | 153,588 | 5.54 | 3,354 | 242,684 | 7.24 |
| Deposits at foreign office | 130 | 4,348 | 3.35 | 159 | 9,014 | 5.68 |
| Total interest-bearing deposits | 6,907 | 284,622 | 4.12 | 6,484 | 402,584 | 6.21 |
| Short-term borrowings | 1,121 | 38,386 | 3.42 | 650 | 36,972 | 5.69 |
| Obligations under capital leases | 1 | 78 | 10.08 | 1 | 95 | 10.24 |
| Other long-term borrowings | 6 | 512 | 8.11 | 6 | 564 | 9.21 |
| Total interest-bearing liabilities | 8,035 | 323,598 | 4.03 | 7,141 | 440,215 | 6.16 |
| Demand deposits | 789 | | | 563 | | |
| Other liabilities | 147 | | | 143 | | |
| Total liabilities | 8,971 | | | 7,847 | | |
| Stockholders' equity | 583 | | | 498 | | |
| Total liabilities and stockholders' equity | $ 9,554 | | | 8,345 | | |
| Net interest spread | | | 4.29 | | | 3.57 |
| Contribution of interest-free funds | | | .50 | | | .65 |
| Net interest income/margin on earning assets | | $ 438,611 | 4.79 % | | 337,730 | 4.22 % |

*Includes nonaccrual loans

(continued)

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

Table 7 (continued)

AVERAGE BALANCE SHEETS AND TAXABLE-EQUIVALENT RATES

| | 1990 | | |
|---|---|---|---|
| Average balance in millions; interest in thousands | Average balance | Interest | Average rate |
| Assets | | | |
| Earning assets | | | |
| Loans and leases, net of unearned discount* | | | |
| Commercial, financial, etc. | $ 1,014 | $ 105,519 | 10.41 % |
| Real estate | 3,297 | 341,553 | 10.36 |
| Consumer | 635 | 79,835 | 12.58 |
| Total loans and leases, net | 4,946 | 526,907 | 10.65 |
| Money-market assets | | | |
| Interest-bearing deposits at banks | 215 | 18,424 | 8.54 |
| Federal funds sold and agreements to resell securities | 96 | 7,689 | 8.03 |
| Trading account | 64 | 5,334 | 8.37 |
| Total money-market assets | 375 | 31,447 | 8.38 |
| Investment securities | | | |
| U.S. Treasury and federal agencies | 947 | 87,233 | 9.22 |
| Obligations of states and political subdivisions | 121 | 11,893 | 9.81 |
| Other | 93 | 8,968 | 9.66 |
| Total investment securities | 1,161 | 108,094 | 9.31 |
| Total earning assets | 6,482 | 666,448 | 10.28 |
| Allowance for possible credit losses | (66) | | |
| Cash and due from banks | 203 | | |
| Other assets | 172 | | |
| Total assets | $ 6,791 | | |
| Liabilities and stockholders' equity | | | |
| Interest-bearing liabilities | | | |
| Interest-bearing deposits | | | |
| NOW accounts | $ 445 | 24,190 | 5.44 |
| Savings deposits | 1,244 | 70,857 | 5.69 |
| Time deposits | 2,988 | 247,284 | 8.28 |
| Deposits at foreign office | 153 | 12,008 | 7.85 |
| Total interest-bearing deposits | 4,830 | 354,339 | 7.34 |
| Short-term borrowings | 896 | 72,088 | 8.04 |
| Obligations under capital leases | 1 | 107 | 10.21 |
| Other long-term borrowings | 7 | 394 | 6.04 |
| Total interest-bearing liabilities | 5,734 | 426,928 | 7.45 |
| Demand deposits | 529 | | |
| Other liabilities | 113 | | |
| Total liabilities | 6,376 | | |
| Stockholders' equity | 415 | | |
| Total liabilities and stockholders' equity | $ 6,791 | | |
| Net interest spread | | | 2.83 |
| Contribution of interest-free funds | | | .87 |
| Net interest income/margin on earning assets | | $ 239,520 | 3.70 % |

*Includes nonaccrual loans

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

Table 8

AVERAGE CORE DEPOSITS

| Dollars in millions | 1994 | Percent increase (decrease) from 1993 to 1994 | 1992 to 1993 |
|---|---|---|---|
| NOW accounts | $ 746 | - % | 12 % |
| Savings deposits | 3,274 | (6) | 5 |
| Time deposits under $100,000 | 1,777 | (9) | (20) |
| Demand deposits | 1,011 | 4 | 24 |
| Total | $ 6,808 | (5)% | (1)% |

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

Table 9

LOAN CHARGE-OFFS, PROVISION AND ALLOWANCE FOR POSSIBLE CREDIT LOSSES

| Dollars in thousands | 1994 | 1993 | 1992 | 1991 | 1990 |
|---|---|---|---|---|---|
| Allowance for possible credit losses beginning balance | $ 195,878 | 151,690 | 100,265 | 74,982 | 58,041 |
| Charge-offs during year | | | | | |
| Commercial, financial, agricultural, etc. | 5,505 | 14,118 | 15,966 | 23,014 | 7,766 |
| Real estate - construction | - | 150 | 400 | - | - |
| Real estate - mortgage | 17,957 | 22,686 | 27,530 | 18,447 | 2,872 |
| Consumer | 8,981 | 9,135 | 7,488 | 7,033 | 5,924 |
| Total charge-offs | 32,443 | 46,089 | 51,384 | 48,494 | 16,562 |
| Recoveries during year | | | | | |
| Commercial, financial, agricultural, etc. | 7,877 | 5,403 | 2,095 | 2,268 | 1,103 |
| Real estate - construction | 13 | - | - | - | - |
| Real estate - mortgage | 4,515 | 1,772 | 445 | 247 | 114 |
| Consumer | 3,418 | 3,144 | 2,531 | 1,850 | 1,874 |
| Total recoveries | 15,823 | 10,319 | 5,071 | 4,365 | 3,091 |
| Net charge-offs | 16,620 | 35,770 | 46,313 | 44,129 | 13,471 |
| Provision for possible credit losses | 60,536 | 79,958 | 84,989 | 63,412 | 27,412 |
| Allowance for possible credit losses acquired during year | 3,538 | - | 12,749 | 6,000 | 3,000 |
| Allowance for possible credit losses ending balance | $ 243,332 | 195,878 | 151,690 | 100,265 | 74,982 |
| Net charge-offs as a percent of: | | | | | |
| Provision for possible credit losses | 27.45 % | 44.74 % | 54.49 % | 69.59 % | 49.14 % |
| Average loans and leases, net of unearned discount | .22 % | .51 % | .70 % | .75 % | .27 % |
| Allowance for possible credit losses as a percent of loans and leases, net of unearned discount, at year-end | 2.96 % | 2.70 % | 2.17 % | 1.66 % | 1.40 % |

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

Table 10

ALLOCATION OF THE ALLOWANCE FOR POSSIBLE CREDIT LOSSES TO LOAN CATEGORIES

| Dollars in thousands | December 31 1994 | 1993 | 1992 | 1991 | 1990 |
|---|---|---|---|---|---|
| Commercial, financial, agricultural, etc. | $ 44,092 | 42,820 | 18,100 | 5,100 | 5,077 |
| Real estate - mortgage | 72,285 | 78,823 | 19,740 | 15,293 | 3,200 |
| Consumer | 17,532 | 13,630 | 6,700 | 6,500 | 4,700 |
| Unallocated | 109,423 | 60,605 | 107,150 | 73,372 | 62,005 |
| Total | $ 243,332 | 195,878 | 151,690 | 100,265 | 74,982 |
| As a percentage of gross loans and leases outstanding | | | | | |
| Commercial, financial, agricultural, etc. | 2.62 % | 2.84 % | 1.22 % | .48 % | .45 % |
| Real estate - mortgage | 1.43 | 1.74 | .45 | .37 | .09 |
| Consumer | 1.05 | 1.02 | .55 | .64 | .51 |

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

Table 11

NONPERFORMING ASSETS

| Dollars in thousands | December 31 1994 | 1993 | 1992 | 1991 | 1990 |
|---|---|---|---|---|---|
| Nonaccrual loans | $ 62,787 | 68,936 | 96,057 | 74,267 | 43,521 |
| Loans past due 90 days or more | 11,754 | 11,122 | 17,536 | 15,422 | 8,740 |
| Renegotiated loans | 2,994 | 2,195 | - | - | - |
| Total nonperforming loans | 77,535 | 82,253 | 113,593 | 89,689 | 52,261 |
| Other real estate owned | 10,065 | 12,222 | 16,694 | 10,354 | 5,655 |
| Total nonperforming assets | $ 87,600 | 94,475 | 130,287 | 100,043 | 57,916 |
| Nonperforming loans to total loans and leases, net of unearned discount | .94 % | 1.13 % | 1.63 % | 1.48 % | .97 % |
| Nonperforming assets to total net loans and leases and other real estate owned | 1.06 % | 1.30 % | 1.86 % | 1.65 % | 1.08 % |

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

Table 12

MATURITY DISTRIBUTION OF LOANS*
December 31, 1994

| Dollars in thousands | Demand | 1995 | 1996-99 | After 1999 |
|---|---|---|---|---|
| Commercial, financial, agricultural, etc. | $ 954,714 | 136,539 | 358,659 | 128,254 |
| Real estate - construction | 5,854 | 31,860 | 15,036 | - |
| Total | $ 960,568 | 168,399 | 373,695 | 128,254 |
| Floating or adjustable interest rates | | | $ 293,802 | 102,800 |
| Fixed or predetermined interest rates | | | 79,893 | 25,454 |
| Total | | | $ 373,695 | 128,254 |

*The data do not include nonaccrual loans.

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

Table 13

MATURITY OF DOMESTIC CERTIFICATES OF DEPOSIT AND TIME DEPOSITS
WITH BALANCES OF $100,000 OR MORE

| Dollars in thousands | December 31, 1994 |
| --- | --- |
| Under 3 months | $ 265,875 |
| 3 to 6 months | 52,521 |
| 6 to 12 months | 153,172 |
| Over 12 months | 437,103 |
| Total | $ 908,671 |

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

TABLE 14

MATURITY AND TAXABLE-EQUIVALENT YIELD OF INVESTMENT SECURITIES

| Dollars in thousands | One year or less | One to five years | Five to ten years | Over ten years | Total |
|---|---|---|---|---|---|
| December 31, 1994 | | | | | |
| Investment securities available for sale | | | | | |
| U.S. Treasury and federal agencies | | | | | |
| Carrying value | $ - | 5,762 | - | - | $ 5,762 |
| Yield | - | 6.35 % | - | - | 6.35 % |
| Mortgage-backed securities* | | | | | |
| Government issued or guaranteed | | | | | |
| Carrying value | 37,213 | 93,119 | 137,869 | 554,332 | 822,533 |
| Yield | 5.33 % | 5.65 % | 5.73 % | 5.63 % | 5.64 % |
| Other | | | | | |
| Carrying value | 14,036 | 121,702 | 179,375 | 350,096 | 665,209 |
| Yield | 5.97 % | 5.84 % | 5.80 % | 6.00 % | 5.92 % |
| Other debt securities | | | | | |
| Carrying value | 1,217 | 2,732 | 2,058 | 550 | 6,557 |
| Yield | 9.77 % | 8.47 % | 8.19 % | 8.19 % | 8.60 % |
| Equity securities | | | | | |
| Carrying value | - | - | - | - | 14,334 |
| Yield | - | - | - | - | - |
| Total investment securities available for sale | | | | | |
| Carrying value | $ 52,466 | 223,315 | 319,302 | 904,978 | $ 1,514,395 |
| Yield | 5.60 % | 5.81 % | 5.79 % | 5.77 % | 5.72 % |
| Investment securities held to maturity | | | | | |
| U.S. Treasury and federal agencies | | | | | |
| Carrying value | $ 51,080 | 120,032 | - | - | $ 171,112 |
| Yield | 4.46 % | 4.37 % | - | - | 4.40 % |
| Obligations of states and political subdivisions | | | | | |
| Carrying value | 49,189 | 4,556 | 1,787 | 255 | 55,787 |
| Yield | 6.12 % | 9.00 % | 10.45 % | 11.13 % | 6.52 % |
| Other debt securities | | | | | |
| Carrying value | - | 752 | - | - | 752 |
| Yield | - | 7.38 % | - | - | 7.38 % |
| Total investment securities held to maturity | | | | | |
| Carrying value | $ 100,269 | 125,340 | 1,787 | 255 | $ 227,651 |
| Yield | 5.27 % | 4.56 % | 10.45 % | 11.13 % | 4.93 % |
| Other investment securities | - | - | - | - | $ 48,994 |
| Total investment securities | | | | | |
| Carrying value | $ 152,735 | 348,655 | 321,089 | 905,233 | $ 1,791,040 |
| Yield | 5.38 % | 5.36 % | 5.82 % | 5.77% | 5.46 % |

* Maturities are reflected based upon contractual payments due. Actual maturities are expected to be significantly shorter as a result of loan prepayments in the underlying mortgage pools.

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

Table 15

INTEREST RATE SENSITIVITY

| December 31 | 1994 Amount in millions | 1994 Percent of total assets | 1993 Amount in millions | 1993 Percent of total assets |
|---|---|---|---|---|
| Net assets (liabilities) rate sensitive within: | | | | |
| Three months | $ (1,702) | (16.2)% | (1,397) | (13.5)% |
| Six months | (1,684) | (16.0) | (1,119) | (10.8) |
| Twelve months | (1,393) | (13.2) | (740) | (7.1) |

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

Table 16

REGULATORY CAPITAL RATIOS

| December 31, 1994 | First Empire (Consolidated) | M&T Bank | East New York |
|---|---|---|---|
| Core capital | 8.91% | 8.64% | 9.13% |
| Total capital | 11.07% | 10.98% | 10.40% |
| Leverage | 7.31% | 6.92% | 7.53% |

Item 8. Financial Statements and Supplementary Data. Financial Statements and Supplementary Data consist of the financial statements as indexed and presented below and table 2 "Quarterly Trends" presented in Part II, Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations".

Index to Financial Statements and Financial Statement Schedules

Report of Independent Accountants

Consolidated Balance Sheet - December 31, 1994 and 1993

Consolidated Statement of Income - Years ended December 31, 1994, 1993 and 1992

Consolidated Statement of Cash Flows - Years ended December 31, 1994, 1993 and 1992

Consolidated Statement of Changes in Stockholders' Equity - Years ended December 31, 1994, 1993 and 1992

Notes to Financial Statements

# REPORT OF INDEPENDENT ACCOUNTANTS

To the Board of Directors and Stockholders
of First Empire State Corporation:

We have audited the accompanying consolidated balance sheet of First Empire State Corporation and subsidiaries as of December 31, 1994 and 1993, and the related consolidated statements of income, cash flows and changes in stockholders' equity for each of the three years in the period ended December 31, 1994. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards. 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 audited by us present fairly, in all material respects, the financial position of First Empire State Corporation and subsidiaries at December 31, 1994 and 1993, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 1994, in conformity with generally accepted accounting principles.

/s/ Price Waterhouse LLP

Buffalo, New York
January 10, 1995

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEET

| Dollars in thousands, except per share | | December 31 1994 | December 31 1993 |
|---|---|---|---|
| Assets | Cash and due from banks | $ 377,781 | 195,792 |
| | Money-market assets | | |
| | Interest-bearing deposits at banks | 143 | 55,044 |
| | Federal funds sold and agreements to resell securities | 3,080 | 329,429 |
| | Trading account | 5,438 | 9,815 |
| | Total money-market assets | 8,661 | 394,288 |
| | Investment securities | | |
| | Available for sale (cost: $1,602,916 in 1994; $2,158,262 in 1993) | 1,514,395 | 2,174,067 |
| | Held to maturity (market value: $221,165 in 1994; $223,617 in 1993) | 227,651 | 223,331 |
| | Other (market value: $48,994 in 1994; $31,754 in 1993) | 48,994 | 31,754 |
| | Total investment securities | 1,791,040 | 2,429,152 |
| | Loans and leases | 8,447,117 | 7,439,059 |
| | Unearned discount | (229,824) | (177,960) |
| | Allowance for possible credit losses | (243,332) | (195,878) |
| | Loans and leases, net | 7,973,961 | 7,065,221 |
| | Premises and equipment | 127,274 | 134,874 |
| | Accrued interest and other assets | 249,927 | 145,631 |
| | Total assets | $ 10,528,644 | 10,364,958 |
| Liabilities | Noninterest-bearing deposits | $ 1,087,102 | 1,052,258 |
| | NOW accounts | 748,199 | 764,690 |
| | Savings deposits | 3,098,438 | 3,364,983 |
| | Time deposits | 3,106,723 | 1,982,272 |
| | Deposits at foreign office | 202,611 | 189,058 |
| | Total deposits | 8,243,073 | 7,353,261 |
| | Federal funds purchased and agreements to repurchase securities | 695,665 | 1,381,335 |
| | Other short-term borrowings | 669,185 | 720,332 |
| | Accrued interest and other liabilities | 103,538 | 110,446 |
| | Long-term borrowings | 95,701 | 75,000 |
| | Obligations under capital leases | 486 | 590 |
| | Total liabilities | 9,807,648 | 9,640,964 |
| Stockholders' equity | Preferred stock, $1 par, 1,000,000 shares authorized, 40,000 shares issued, stated at aggregate liquidation value | 40,000 | 40,000 |
| | Common stock, $5 par, 15,000,000 shares authorized, 8,097,472 shares issued | 40,487 | 40,487 |
| | Surplus | 98,014 | 97,787 |
| | Undivided profits | 694,274 | 595,322 |
| | Unrealized investment gains (losses), net | (50,555) | 9,148 |
| | Treasury stock - common, at cost - 1,486,969 shares in 1994; 1,218,347 shares in 1993 | (101,224) | (58,750) |
| | Total stockholders' equity | 720,996 | 723,994 |
| | Total liabilities and stockholders' equity | $ 10,528,644 | 10,364,958 |

See accompanying notes to financial statements.

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

CONSOLIDATED STATEMENT OF INCOME

| Dollars in thousands, except per share | | Year ended December 1994 | 1993 | 1992 |
|---|---|---|---|---|
| Interest income | Loans and leases, including fees | $ 633,077 | 608,473 | 602,932 |
| | Money-market assets | | | |
| | Deposits at banks | 2,212 | 6,740 | 1,083 |
| | Federal funds sold and agreements to resell securities | 4,751 | 20,403 | 18,100 |
| | Trading account | 361 | 1,242 | 2,927 |
| | Investment securities | | | |
| | Fully taxable | 104,185 | 101,187 | 125,529 |
| | Exempt from federal taxes | 2,760 | 2,584 | 5,906 |
| | Total interest income | 747,346 | 740,629 | 756,477 |
| Interest expense | NOW accounts | 11,286 | 13,113 | 16,544 |
| | Savings deposits | 84,804 | 90,392 | 110,142 |
| | Time deposits | 97,067 | 98,508 | 153,588 |
| | Deposits at foreign office | 5,894 | 3,243 | 4,348 |
| | Short-term borrowings | 73,868 | 58,459 | 38,386 |
| | Long-term borrowings and capital leases | 6,287 | 6,158 | 590 |
| | Total interest expense | 279,206 | 269,873 | 323,598 |
| | Net interest income | 468,140 | 470,756 | 432,879 |
| | Provision for possible credit losses | 60,536 | 79,958 | 84,989 |
| | Net interest income after provision for possible credit losses | 407,604 | 390,798 | 347,890 |
| Other income | Trust income | 22,574 | 23,865 | 16,905 |
| | Service charges on deposit accounts | 35,016 | 32,291 | 28,372 |
| | Merchant discount and other credit card fees | 8,705 | 7,932 | 6,728 |
| | Trading account gains | 700 | 2,702 | 1,684 |
| | Gain on sales of bank investment securities | 128 | 870 | 28,050 |
| | Other revenues from operations | 56,616 | 42,884 | 44,487 |
| | Total other income | 123,739 | 110,544 | 126,226 |
| Other expense | Salaries and employee benefits | 161,221 | 154,340 | 130,751 |
| | Equipment and net occupancy | 49,132 | 47,823 | 41,659 |
| | Printing, postage and supplies | 13,516 | 13,021 | 13,111 |
| | Deposit insurance | 16,442 | 17,684 | 17,783 |
| | Other costs of operations | 96,551 | 94,951 | 108,034 |
| | Total other expense | 336,862 | 327,819 | 311,338 |
| | Income before income taxes | 194,481 | 173,523 | 162,778 |
| | Income taxes | 77,186 | 71,531 | 64,841 |
| | Net income | $ 117,295 | 101,992 | 97,937 |
| | Net income per common share | | | |
| | Primary | $16.35 | 13.87 | 13.41 |
| | Fully diluted | 15.71 | 13.42 | 12.98 |

See accompanying notes to financial statements.

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

CONSOLIDATED STATEMENT OF CASH FLOWS

| Dollars in thousands | | Year ended December 31 1994 | 1993 | 1992 |
|---|---|---|---|---|
| Cash flows from operating activities | Net income | $ 117,295 | 101,992 | 97,937 |
| | Adjustments to reconcile net income to net cash provided by operating activities | | | |
| | Provision for possible credit losses | 60,536 | 79,958 | 84,989 |
| | Depreciation and amortization of premises and equipment | 17,625 | 16,238 | 12,970 |
| | Provision for deferred income taxes | (2,866) | (23,700) | (27,868) |
| | Asset write-downs | 3,184 | 9,037 | 23,102 |
| | Net gain on sales of assets | (4,744) | (870) | (34,813) |
| | Net change in accrued interest receivable, payable | 8,084 | (6,946) | 11,392 |
| | Net change in other accrued income and expense | (36,151) | 35,807 | 14,477 |
| | Net change in loans held for sale | 169,883 | (70,462) | (51,571) |
| | Net change in trading account assets | 4,377 | 43,700 | 186,697 |
| | Net cash provided by operating activities | 337,223 | 184,754 | 317,312 |
| Cash flows from investing activities | Proceeds from sales of investment securities | | | |
| | Available for sale | 52,824 | - | - |
| | Other | 7,446 | - | 843,547 |
| | Proceeds from maturities of investment securities | | | |
| | Available for sale | 562,498 | - | - |
| | Held to maturity | 55,283 | - | - |
| | Other | - | 1,298,887 | 992,545 |
| | Purchases of investment securities | | | |
| | Available for sale | (17,143) | - | - |
| | Held to maturity | (59,704) | - | - |
| | Other | (20,292) | (2,011,405) | (901,257) |
| | Net (increase) decrease in interest-bearing deposits at banks | 54,901 | 54,997 | (109,113) |
| | Proceeds from sales of loans and leases | 7,601 | - | 103,461 |
| | Purchase of loans | - | - | (264,324) |
| | Net (increase) decrease in loans and leases | (778,201) | (242,249) | 257,248 |
| | Capital expenditures, net | (6,876) | (22,329) | (32,335) |
| | Acquisitions, net of cash acquired | 102,721 | - | 17,182 |
| | Other, net | 15,584 | 28,842 | (12,061) |
| | Net cash provided (used) by investing activities | (23,358) | (893,257) | 894,893 |
| Cash flows from financing activities | Net increase (decrease) in deposits | 413,865 | (722,480) | (700,910) |
| | Net increase (decrease) in short-term borrowings | (807,826) | 1,408,976 | (338,285) |
| | Proceeds from issuance of subordinated notes | - | - | 75,000 |
| | Payments on long-term borrowings | (116) | (95) | (1,595) |
| | Purchases of treasury stock | (43,964) | - | - |
| | Dividends paid - common | (14,743) | (13,054) | (10,780) |
| | Dividends paid - preferred | (3,600) | (3,600) | (3,600) |
| | Other, net | (1,841) | (12,990) | 8,413 |
| | Net cash provided (used) by financing activities | (458,225) | 656,757 | (971,757) |
| | Net increase (decrease) in cash and cash equivalents | $ (144,360) | (51,746) | 240,448 |
| | Cash and cash equivalents at beginning of year | 525,221 | 576,967 | 336,519 |
| | Cash and cash equivalents at end of year | $ 380,861 | 525,221 | 576,967 |
| Supplemental disclosure of cash flow information | Interest received during the year | $ 743,184 | 750,947 | 761,857 |
| | Interest paid during the year | 270,802 | 278,125 | 328,100 |
| | Income taxes paid during the year | 110,162 | 77,024 | 97,182 |
| Supplemental schedule of noncash investing and financing activities | Real estate acquired in settlement of loans | $ 9,936 | 9,415 | 20,572 |

See accompanying notes to financial statements.

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

CONSOLIDATED STATEMENT OF CHANGES IN STOCKHOLDERS' EQUITY

| | Dollars in thousands, except per share | Preferred stock | Common stock | Surplus | Undivided profits | Unrealized investment gains (losses), net | Treasury stock | Total |
|---|---|---|---|---|---|---|---|---|
| 1992 | Balance - January 1, 1992 | $40,000 | 40,487 | 95,287 | 426,427 | - | (66,426) | $535,775 |
| | Net income | - | - | - | 97,937 | - | - | 97,937 |
| | Preferred stock cash dividends | - | - | - | (3,600) | - | - | (3,600) |
| | Common stock cash dividends - $ 1.60 per share | - | - | - | (10,780) | - | - | (10,780) |
| | Exercise of stock options | - | - | 1,529 | - | - | 5,934 | 7,463 |
| | Balance - December 31, 1992 | $40,000 | 40,487 | 96,816 | 509,984 | - | (60,492) | $626,795 |
| 1993 | Net income | - | - | - | 101,992 | - | - | 101,992 |
| | Preferred stock cash dividends | - | - | - | (3,600) | - | - | (3,600) |
| | Common stock cash dividends - $ 1.90 per share | - | - | - | (13,054) | - | - | (13,054) |
| | Exercise of stock options | - | - | 971 | - | - | 1,742 | 2,713 |
| | Unrealized gains on investment securities available for sale, net | - | - | - | - | 9,148 | - | 9,148 |
| | Balance - December 31, 1993 | $40,000 | 40,487 | 97,787 | 595,322 | 9,148 | (58,750) | $723,994 |
| 1994 | Net income | - | - | - | 117,295 | - | - | 117,295 |
| | Preferred stock cash dividends | - | - | - | (3,600) | - | - | (3,600) |
| | Common stock cash dividends - $ 2.20 per share | - | - | - | (14,743) | - | - | (14,743) |
| | Exercise of stock options | - | - | 227 | - | - | 1,490 | 1,717 |
| | Purchases of treasury stock | - | - | - | - | - | (43,964) | (43,964) |
| | Unrealized losses on investment securities available for sale, net | - | - | - | - | (59,703) | - | (59,703) |
| | Balance - December 31, 1994 | $40,000 | 40,487 | 98,014 | 694,274 | (50,555) | (101,224) | $720,996 |

See accompanying notes to financial statements.

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES
Notes to Financial Statements

1. Significant accounting policies

The accounting and reporting policies of First Empire State Corporation and subsidiaries ("the Company") conform to generally accepted accounting principles and to general practices within the banking industry. The more significant accounting policies are as follows:

Consolidation

The consolidated financial statements include First Empire State Corporation ("Parent Company") and its subsidiaries, all of which are wholly owned. The financial statements of the Parent Company report investments in subsidiaries under the equity method, adjusted for the impact of significant intercompany transactions, all of which are eliminated in consolidation.

Consolidated Statement of Cash Flows

For purposes of this statement, cash and due from banks, Federal funds sold and agreements to resell securities are considered cash and cash equivalents.

Trading account

Financial instruments used for trading purposes are stated at fair value. Realized gains and losses and unrealized changes in fair value are included in trading account gains in the Consolidated Statement of Income.

Investment securities

Investments in debt securities are classified as held to maturity and stated at amortized cost when management has the positive intent and ability to hold such securities to maturity. Investments in other debt securities and equity securities having readily determinable fair values are classified as available for sale and stated at estimated fair value. Unrealized gains or losses related to investment securities available for sale are reflected in stockholders' equity, net of applicable income taxes.

Other securities include stock of the Federal Reserve Bank of New York and Federal Home Loan Bank of New York and are stated at cost.

Amortization of premiums and accretion of discounts for investment securities available for sale and held to maturity are included in interest income. The cost basis of individual securities is written down to estimated fair value through a charge to earnings when declines in value below amortized cost are considered to be other than temporary. Realized gains and losses on the sales of investment securities are determined using the specific identification method.

On December 31, 1993, the Company adopted Statement of Financial Accounting Standards ("SFAS") No. 115, "Accounting for Certain Investments in Debt and Equity Securities". As required, the provisions of SFAS No. 115 were not applied to any prior periods. Prior to December 31, 1993 debt securities were carried at amortized cost when management had both the ability and intent to hold such securities to maturity. Periodic sales of these securities occurred principally as a result of reactive measures taken by management to changing business circumstances. When it became probable that a debt security would be sold, the security was classified as held for sale. Investment securities held for sale were reported at the lower of aggregate cost or fair market value. Adjustments to the carrying value of investment securities held for sale were included in gain on sales of bank investment securities in the Consolidated Statement of Income. Equity securities were stated at the lower of cost or fair market value. The

1. Significant accounting policies, continued

carrying value of individual securities was written down to estimated fair value through a charge to earnings when declines in value were considered to be other than temporary.

Loans

Interest income on loans is accrued on a level yield method. Loans are placed on nonaccrual status and previously accrued interest thereon is charged against income when principal or interest is delinquent 90 days, unless management determines that the loan status clearly warrants other treatment. Loan fees and certain direct loan origination costs are deferred and recognized as an interest yield adjustment over the life of the loan. Net deferred fees have been included in unearned discount in the Consolidated Balance Sheet as a reduction of loans outstanding. Loans held for sale are carried at the lower of cost or fair market value. Valuation adjustments made on these loans are included in other revenues from operations in the Consolidated Statement of Income.

Allowance for possible credit losses

The allowance for possible credit losses represents the amount which, in management's judgment, will be adequate to absorb credit losses from existing loans, leases and credit commitments. The adequacy of the allowance is determined by management's evaluation of the loan portfolio based on such factors as the differing economic risks associated with each loan category, the current financial condition of specific borrowers, the economic environment in which borrowers operate, any delinquency in payments, and the value of any collateral.

Premises and equipment

Premises and equipment are stated at cost less accumulated depreciation. Depreciation expense is computed principally using the straight-line method over the estimated useful lives of the assets.

Income taxes

Deferred tax assets and liabilities are recognized for the future tax effects attributable to differences between the financial statement value of existing assets and liabilities and their respective tax bases and carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates and laws. Investment tax credits related to leveraged leasing property are amortized into income tax expense over the life of the lease agreement.

Financial futures

On occasion the Company uses interest rate futures contracts as part of its management of interest rate risk. Outstanding financial futures contracts represent future commitments and are not included in the Consolidated Balance Sheet. Futures contracts used in securities trading operations are marked to market and the resulting gains or losses are recognized in trading account gains. Gains and losses on futures contracts designated as hedges are amortized as an adjustment to interest income or expense over the life of the item hedged.

Interest rate swap agreements

For interest rate swap agreements used to manage interest rate risk arising from financial assets and liabilities, amounts receivable or payable are

1. Significant accounting policies, continued

recognized as accrued under the terms of the agreement and the net interest differential, including any amortization of premiums paid or accretion of discounts received, is recorded as an adjustment to interest income or expense of the related asset or liability. Gains or losses resulting from early termination of interest rate swap agreements used to manage interest rate risk are amortized over the remaining term or estimated life of the agreement. Agreements and commitments entered into for trading purposes are marked to market with resulting gains or losses recorded in trading account gains.

Earnings per common share

Earnings per common share data are computed on the basis of the weighted average number of shares outstanding during the year, plus shares issuable upon the assumed exercise of outstanding common stock options. Proceeds assumed to have been received on such exercise are treated as if applied toward the repurchase of outstanding common shares in the open market during the year, as required under the "treasury stock" method of accounting.

2. Acquisitions

On December 1, 1994, the Parent Company acquired Ithaca Bancorp, Inc. ("Ithaca Bancorp"), Ithaca, New York, in exchange for a cash consideration of $19 per common share, or approximately $44.2 million. Simultaneously with the acquisition, Ithaca Bancorp's savings bank subsidiary, Citizens Savings Bank, F.S.B., was merged into the Parent Company's commercial bank subsidiary, Manufacturers and Traders Trust Company ("M&T Bank") bringing twelve banking offices in New York's Southern Tier into M&T Bank's branch network. As of December 1, 1994, assets acquired totaled $470 million, including $369 million of loans; at that date, liabilities assumed totaled $425 million, including $330 million of deposits.

On December 10, 1994, M&T Bank purchased, in a cash transaction, approximately $146 million of deposits from Chemical Bank, along with seven banking offices in the Hudson Valley region of New York State.

These acquisitions have been accounted for as purchase transactions and, accordingly, the operating results of the acquired entities have been included in the Company's results of operations since the respective acquisition dates. The operating results of the acquired entities did not have a significant impact on the Company's results of operations in 1994. The excess of the cost of the acquired entities over the fair value of identifiable assets acquired less liabilities assumed has been recorded as goodwill and amounted to approximately $24 million, which is being amortized on a straight-line basis over five years.

Presented below is certain proforma information as if Ithaca Bancorp had been acquired on January 1, 1993. These results combine the historical results of Ithaca Bancorp into the Company's Consolidated Statement of Income and, while certain adjustments were made for the estimated impact of purchase accounting adjustments and other acquisition-related activity, they are not necessarily indicative of what would have occurred had the acquisition taken place at that time.

2. Acquisitions, continued

| | Proforma Year ended December 31 1994 | 1993 |
|---|---|---|
| | (in thousands, except per share) | |
| Interest income | $775,879 | 771,715 |
| Other income | 126,353 | 114,237 |
| Net income | 116,608 | 101,205 |
| Earnings per common share | $16.26 | 13.76 |

On January 4, 1995, M&T Bank's mortgage banking subsidiary, M&T Mortgage Corporation, entered into a definitive agreement to acquire Statewide Funding Corporation ("Statewide"), a privately-owned mortgage banking company based near Albany, New York. Statewide has a mortgage servicing portfolio of approximately $1.0 billion and originated more than $400 million of mortgage loans in 1994. The acquisition is subject to regulatory approval and other customary conditions. It is currently anticipated that the transaction will be completed in the first quarter of 1995. The transaction will be accounted for under the purchase method of accounting.

3. Investment securities

The amortized cost and estimated fair value of investment securities were as follows:

| | Amortized cost | Gross unrealized gains | Gross unrealized losses | Estimated fair value |
|---|---|---|---|---|
| | | (in thousands) | | |
| December 31, 1994 | | | | |
| Investment securities available for sale: | | | | |
| U.S. Treasury and federal agencies | $ 5,775 | - | 13 | 5,762 |
| Mortgage-backed securities | | | | |
| Government issued or guaranteed | 869,031 | 403 | 46,901 | 822,533 |
| Other | 706,909 | 110 | 41,810 | 665,209 |
| Other debt securities | 6,537 | 20 | - | 6,557 |
| Equity securities | 14,664 | 1,532 | 1,862 | 14,334 |
| | 1,602,916 | 2,065 | 90,586 | 1,514,395 |
| Investment securities held to maturity: | | | | |
| U.S. Treasury and federal agencies | 171,112 | 1 | 6,511 | 164,602 |
| Obligations of states and political subdivisions | 55,787 | 266 | 181 | 55,872 |
| Other debt securities | 752 | - | 61 | 691 |
| | 227,651 | 267 | 6,753 | 221,165 |
| Other securities | 48,994 | - | - | 48,994 |
| Total | $1,879,561 | 2,332 | 97,339 | 1,784,554 |

3. Investment securities, continued

| | Amortized cost | Gross unrealized gains | Gross unrealized losses | Estimated fair value |
|---|---|---|---|---|
| | (in thousands) | | | |
| December 31, 1993 | | | | |
| Investment securities available for sale: | | | | |
| Mortgage-backed securities | | | | |
| Government issued or guaranteed | $1,210,921 | 7,950 | 4,669 | 1,214,202 |
| Other | 896,362 | 3,670 | 4,130 | 895,902 |
| Other debt securities | 39,893 | 938 | - | 40,831 |
| Equity securities | 11,086 | 12,266 | 220 | 23,132 |
| | 2,158,262 | 24,824 | 9,019 | 2,174,067 |
| Investment securities held to maturity: | | | | |
| U.S. Treasury and federal agencies | 173,193 | 83 | 405 | 172,871 |
| Obligations of states and political subdivisions | 49,230 | 701 | 51 | 49,880 |
| Other debt securities | 908 | 13 | 55 | 866 |
| | 223,331 | 797 | 511 | 223,617 |
| Other securities | 31,754 | - | - | 31,754 |
| Total | $2,413,347 | 25,621 | 9,530 | 2,429,438 |

The amortized cost and estimated fair value of collateralized mortgage obligations included in mortgage-backed securities were as follows:

| | December 31 1994 | 1993 |
|---|---|---|
| | (in thousands) | |
| Amortized cost | $788,776 | 1,184,026 |
| Estimated fair value | 736,259 | 1,182,194 |

Gross realized gains on the sale of investment securities available for sale were $128,000 in 1994. Gains recognized in 1993 consisted of appreciation in market value of investment securities held for sale at December 31, 1992. Proceeds from the sales of debt securities were $843,315,000 in 1992. Gross gains and losses realized on sales in 1992 were $31,742,000 and $3,013,000, respectively.

3. Investment securities, continued

At December 31, 1994, the amortized cost and estimated fair value of debt securities by contractual maturity were as follows:

| | Amortized cost | Estimated fair value |
|---|---|---|
| | (in thousands) | |
| Debt securities available for sale: | | |
| Due in one year or less | $ 1,214 | 1,217 |
| Due after one year through five years | 8,500 | 8,494 |
| Due after five years through ten years | 2,051 | 2,058 |
| Due after ten years | 547 | 550 |
| | 12,312 | 12,319 |
| Mortgage-backed securities available for sale | 1,575,940 | 1,487,742 |
| | $1,588,252 | 1,500,061 |
| Debt securities held to maturity: | | |
| Due in one year or less | $ 100,269 | 98,817 |
| Due after one year through five years | 125,340 | 120,187 |
| Due after five years through ten years | 1,787 | 1,890 |
| Due after ten years | 255 | 271 |
| | $ 227,651 | 221,165 |

At December 31, 1994, investment securities with a carrying value of $902,603,000, including $733,463,000 of investment securities available for sale, were pledged to secure demand notes issued to the U.S. Treasury, borrowings from the Federal Home Loan Bank of New York, repurchase agreements, governmental deposits and interest rate swap agreements.

4. Loans and leases

Total gross loans and leases outstanding were comprised of the following:

| | December 31 1994 | 1993 |
|---|---|---|
| | (in thousands) | |
| Loans | | |
| Commercial, financial, agricultural, etc. | $1,592,627 | 1,419,039 |
| Real estate: | | |
| Residential | 1,707,840 | 1,536,579 |
| Commercial | 3,339,097 | 3,003,598 |
| Construction | 53,535 | 51,384 |
| Consumer | 1,666,230 | 1,337,293 |
| Total loans | 8,359,329 | 7,347,893 |
| Leases-commercial | 87,788 | 91,166 |
| Total loans and leases | $8,447,117 | 7,439,059 |

One-to-four family residential mortgage loans held for sale were $33.4 million and $203.3 million at December 31, 1994 and 1993, respectively. The Company typically retains the mortgage servicing rights related to one-to-four family residential mortgage loans sold. One-to-four family residential mortgage loans serviced for others totaled approximately $4.0 billion at December 31, 1994 and $2.9 billion at December 31, 1993. Approximately $18.4 million of one-to-four family residential mortgage loans have been sold with recourse. The total credit loss exposure resulting from loans sold with recourse was considered negligible as of December 31, 1994.

4. Loans and leases, continued

Included in the table above are nonperforming loans (loans on which interest was not being accrued, or which were ninety days or more past due or had been renegotiated at below-market interest rates) of $77,535,000 at December 31, 1994 and $82,253,000 at December 31, 1993. If nonaccrual and renegotiated loans had been accruing interest at their originally contracted terms, interest income on these loans would have amounted to $9.6 million in 1994 and $10.2 million in 1993. The actual amount included in interest income during 1994 and 1993 on these loans was $1.6 million and $1.4 million, respectively.

Borrowings by directors and officers of the Parent Company and its banking subsidiaries, and by associates of such persons, exclusive of loans aggregating less than $60,000, amounted to $129,736,000 and $61,179,000 at December 31, 1994 and 1993, respectively. During 1994, new borrowings by such persons amounted to $94,643,000 (including borrowings of new directors or officers that were outstanding at the time of their election) and repayments and other deductions equaled $26,086,000.

At December 31, 1994, approximately $370 million of real estate loans, primarily commercial real estate loans, were pledged to secure borrowings.

5. Allowance for possible credit losses

Changes in the allowance for possible credit losses were as follows:

| | 1994 | 1993 | 1992 |
|---|---|---|---|
| | (in thousands) | | |
| Beginning balance | $195,878 | 151,690 | 100,265 |
| Provision for possible credit losses | 60,536 | 79,958 | 84,989 |
| Allowance for possible credit losses acquired | 3,538 | - | 12,749 |
| Net charge-offs | | | |
| Charge-offs | (32,443) | (46,089) | (51,384) |
| Recoveries | 15,823 | 10,319 | 5,071 |
| Net charge-offs | (16,620) | (35,770) | (46,313) |
| Ending balance | $243,332 | 195,878 | 151,690 |

6. Premises and equipment

The detail of premises and equipment was as follows:

| | December 31 1994 | December 31 1993 |
|---|---|---|
| | (in thousands) | |
| Land | $ 12,730 | 15,151 |
| Buildings owned | 88,123 | 89,613 |
| Buildings under capital leases | 1,773 | 1,773 |
| Leasehold improvements | 33,404 | 30,185 |
| Furniture and equipment owned | 102,212 | 92,544 |
| | 238,242 | 229,266 |
| Less: accumulated depreciation and amortization | | |
| Owned assets | 109,354 | 92,819 |
| Capital leases | 1,614 | 1,573 |
| | 110,968 | 94,392 |
| Premises and equipment, net | $127,274 | 134,874 |

Net lease expense for all operating leases totaled $13,329,000 in 1994, $12,051,000 in 1993 and $11,617,000 in 1992. The Company occupies certain banking offices and uses certain equipment under noncancellable operating lease agreements expiring at various dates over the next 22 years. Minimum lease payments under noncancellable operating leases are summarized as follows:

| Year ending December 31: | (in thousands) |
|---|---|
| 1995 | $ 8,045 |
| 1996 | 6,812 |
| 1997 | 7,105 |
| 1998 | 6,390 |
| 1999 | 7,529 |
| Later years | 75,834 |
| | $111,715 |

Payments required under capital leases are not material.

7. Borrowings

The amount and interest rate of short-term borrowings were as follows:

| | Federal funds purchased and repurchase agreements | Other borrowings | Total |
|---|---|---|---|
| | (dollars in thousands) | | |
| At December 31, 1994 | | | |
| Amount outstanding | $ 695,665 | 669,185 | 1,364,850 |
| Weighted-average interest rate | 6.07% | 6.02% | 6.05% |
| For the year ended December 31, 1994 | | | |
| Highest amount at a month-end | $1,829,630 | 1,038,502 | |
| Daily-average amount outstanding | 1,432,845 | 339,676 | 1,772,521 |
| Weighted-average interest rate | 4.12% | 4.38% | 4.17% |
| At December 31, 1993 | | | |
| Amount outstanding | $1,381,335 | 720,332 | 2,101,667 |
| Weighted-average interest rate | 3.41% | 2.97% | 3.26% |
| For the year ended December 31, 1993 | | | |
| Highest amount at a month-end | $2,434,239 | 720,332 | |
| Daily-average amount outstanding | 1,639,537 | 282,989 | 1,922,526 |
| Weighted-average interest rate | 3.06% | 2.93% | 3.04% |
| At December 31, 1992 | | | |
| Amount outstanding | $ 329,161 | 363,530 | 692,691 |
| Weighted-average interest rate | 3.19% | 2.49% | 2.82% |
| For the year ended December 31, 1992 | | | |
| Highest amount at a month-end | $1,350,404 | 883,236 | |
| Daily-average amount outstanding | 831,494 | 289,917 | 1,121,411 |
| Weighted-average interest rate | 3.45% | 3.34% | 3.42% |

At December 31, 1994, the Parent Company, M&T Bank and The East New York Savings Bank ("East New York"), a wholly owned subsidiary of the Parent Company, had lines of credit under formal agreements as follows:

| | Parent Company | M&T Bank | East New York |
|---|---|---|---|
| | (in thousands) | | |
| Outstanding borrowings | $ 3,000 | 23,701 | 225,000 |
| Unused | 22,000 | 580,401 | 23,958 |

7. Borrowings, continued

Long-term borrowings at December 31, 1994 and 1993 included $75 million of 8 1/8% subordinated notes issued by M&T Bank. Such notes mature on December 1, 2002 and are subordinate to the claims of depositors and other creditors of M&T Bank. At December 31, 1994 long-term borrowings also included $20,701,000 of notes payable to the Federal Home Loan Bank of New York with fixed and variable rates of interest ranging from 4.74% to 8.60%. Such notes are secured by residential mortgage loans.

Long-term borrowings at December 31, 1994 mature as follows:

| Year ending December 31: | (in thousands) |
|---|---|
| 1995 | $ - |
| 1996 | 14,351 |
| 1997 | 3,991 |
| 1998 | 398 |
| 1999 | - |
| Later years | 76,961 |
| | $95,701 |

8. Preferred stock

The 9% cumulative preferred stock is convertible at any time into shares of the Parent Company's common stock at an initial conversion price of $78.90625 per share. The conversion formula provides the holder with anti-dilution protections in the event the Parent Company issues additional common stock at a price which is less than the conversion price or in the event that there are other capital changes such as common stock dividends or stock splits. The Parent Company has the right, subject to regulatory approval, to redeem the preferred stock, in whole, but not in part, on or after March 31, 1996 at a price of $40,000,000 plus accrued and unpaid dividends. The Parent Company must provide at least 45 days notice to the preferred stockholder of its intention to redeem the shares, during which time the preferred stockholder may exercise the conversion privilege.

The preferred stock is not considered to be a common stock equivalent. Preferred stock dividends are deducted from net income when calculating primary earnings per common share. The calculation of fully diluted earnings per common share assumes that the preferred stock was converted to 506,930 shares of common stock at issuance and that no preferred stock dividends were paid.

9. Disclosures about fair value of financial instruments

SFAS No. 107, "Disclosures about Fair Value of Financial Instruments", requires that financial institutions disclose the estimated "fair value" of their financial instruments. "Fair value" is generally defined as the price a willing buyer and a willing seller would exchange for a financial instrument in other than a distressed sale situation. Disclosures related to fair value presented herein are as of December 31, 1994 and 1993.

With the exception of marketable securities, certain off-balance sheet financial instruments and one-to-four family residential mortgage loans originated for sale, the Company's financial instruments are not readily marketable and market prices do not exist. The Company, in attempting to comply with the provisions of SFAS No. 107, has not attempted to market its

9. Disclosures about fair value of financial instruments, continued

financial instruments to potential buyers, if any exist. Since negotiated prices in illiquid markets depend greatly upon the then present motivations of the buyer and seller, it is reasonable to assume that actual sales prices could vary widely from any estimate of fair value made without the benefit of negotiations. Additionally, changes in market interest rates can dramatically impact the value of financial instruments in a short period of time.

The estimated fair value of investments in readily marketable debt and equity securities were based on the market prices quoted by the related exchanges at the respective year-end. The Company, in arriving at estimated fair value of other financial instruments, primarily used calculations based upon discounted cash flows of the related financial instruments. In general, discount rates used for loan products were based upon the Company's pricing at the respective year-end. A higher discount rate was assumed with respect to estimated cash flows associated with nonaccrual loans.

As more fully described in note 3, the carrying value and estimated fair value of investment securities were as follows:

| | Carrying value | Estimated fair value |
|---|---|---|
| | (in thousands) | |
| December 31 | | |
| 1994 | $1,791,040 | 1,784,554 |
| 1993 | 2,429,152 | 2,429,438 |

The following table presents the carrying value and calculated estimates of fair value related to loans and loan commitments:

| | Carrying value | Calculated estimate |
|---|---|---|
| | (in thousands) | |
| December 31, 1994 | | |
| Commercial loans and leases | $1,659,532 | 1,650,138 |
| Commercial real estate loans | 3,352,600 | 3,261,013 |
| Residential real estate loans | 1,653,552 | 1,609,921 |
| Consumer loans | 1,551,609 | 1,554,609 |
| | $8,217,293 | 8,075,681 |
| December 31, 1993 | | |
| Commercial loans and leases | $1,490,745 | 1,490,869 |
| Commercial real estate loans | 3,019,859 | 3,086,602 |
| Residential real estate loans | 1,526,104 | 1,550,504 |
| Consumer loans | 1,224,391 | 1,259,579 |
| | $7,261,099 | 7,387,554 |

SFAS No. 107 requires that the estimated fair value ascribed to noninterest-bearing deposits, savings deposits and NOW accounts be established at carrying value because of the customers' ability to withdraw funds immediately. Additionally, time deposit accounts are required to be

9. Disclosures about fair value of financial instruments, continued

revalued based upon prevailing market interest rates for similar maturity instruments. The following summarizes the results of these calculations:

| | Carrying value | Calculated estimate |
|---|---|---|
| | (in thousands) | |
| December 31, 1994 | | |
| Noninterest-bearing deposits | $1,087,102 | 1,087,102 |
| Savings deposits and NOW accounts | 3,846,637 | 3,846,637 |
| Time deposits | 3,106,723 | 3,088,666 |
| Deposits at foreign office | 202,611 | 202,611 |
| December 31, 1993 | | |
| Noninterest-bearing deposits | $1,052,258 | 1,052,258 |
| Savings deposits and NOW accounts | 4,129,673 | 4,129,673 |
| Time deposits | 1,982,272 | 2,016,376 |
| Deposits at foreign office | 189,058 | 189,058 |

The Company believes that deposit accounts clearly have a value greater than that prescribed by SFAS No. 107. The Company feels, however, that the value associated with these deposits is greatly influenced by characteristics of the buyer, such as the ability to reduce the costs of servicing the deposits, and the expected deposit attrition which is customary in acquisitions. Accordingly, estimating the fair value of deposits with any degree of certainty is not practical.

As more fully described in note 15, the Company had entered into interest rate swap agreements for purposes of managing the Company's exposure to changing interest rates. The estimated fair value of interest rate swap agreements represents the amount the Company would have expected to receive or pay to terminate such swaps. The following table includes information about the estimated fair value of interest rate swaps entered into for interest rate risk management purposes:

| | Notional amount | Gross unrealized gains | Gross unrealized losses | Estimated fair value - gain (loss) |
|---|---|---|---|---|
| | | (in thousands) | | |
| December 31 | | | | |
| 1994 | $2,388,000 | - | (119,079) | (119,079) |
| 1993 | $1,711,294 | 16,901 | (1,330) | 15,571 |

As described in note 15, the Company also uses certain derivative financial instruments as part of its trading activities. Interest rate swaps entered into for trading purposes had a notional value of $40 million and an estimated fair value of $3,000 at December 31, 1994. There were no interest rate swaps held for trading purposes at December 31, 1993. The Company also entered into foreign exchange and other option and futures contracts totaling $296 million and $467 million at December 31, 1994 and 1993, respectively. Such contracts were valued at a loss of $19,000 and $195,000 at December 31, 1994 and 1993, respectively. All trading account assets and liabilities are recorded in the Consolidated Balance Sheet at estimated fair value.

Due to the near maturity of other money-market assets and short-term borrowings, the Company estimates that the carrying value of such instruments approximates estimated fair value. The carrying value and estimated fair value of long-term borrowings were $96,187,000 and $93,277,000, respectively, at December 31, 1994 and $75,590,000 and $83,607,000, respectively, at December 31, 1993.

9. Disclosures about fair value of financial instruments, continued

The Company does not believe that the estimated fair value information presented herein is representative of the earnings power or value of the Company. The preceding analysis, which is inherently limited in depicting fair value, also does not consider any value associated with existing customer relationships nor the ability of the Company to create value through its loan origination, deposit gathering, or fee generating activities.

Many of the fair value estimates presented herein are based upon the use of highly subjective information and assumptions and, accordingly, the results may not be precise. Management believes that fair value estimates may not be comparable between financial institutions due to the wide range of permitted valuation techniques and numerous estimates which must be made. Further, since the fair value is estimated as of the balance sheet date, the amounts actually realized or paid upon maturity or settlement of the various financial instruments could be significantly different.

10. Stock option plan

The stock option plan allows the grant of stock options and stock appreciation rights (either in tandem with options or independently) which are exercisable over terms not exceeding ten years and one day, and at prices which may not be less than the fair market value of the common stock on the date of grant. When exercisable, the stock appreciation rights issued in tandem with stock options entitle grantees to receive cash, stock or a combination equal to the amount of stock appreciation between the dates of grant and exercise. Stock appreciation rights issued independently of stock options contain similar terms as the stock options, although upon exercise the holder is only entitled to receive cash instead of purchasing shares of the Parent Company's common stock. Of the stock options outstanding at December 31, 1994, 514,946 were granted with limited stock appreciation rights attached thereto. A summary of related activity follows:

| | Stock options outstanding | Cash-only appreciation rights outstanding | Exercise price per share Range | Exercise price per share Average |
|---|---|---|---|---|
| 1992 | | | | |
| Beginning balance | 459,983 | 139,500 | $ 15.75- 70.00 | $ 46.00 |
| Granted | 110,702 | - | 105.13-131.88 | 106.65 |
| Exercised | (137,288) | (14,300) | 15.75- 70.00 | 30.78 |
| Cancelled | (2,200) | (4,000) | 40.25-105.13 | 63.76 |
| At year-end | 431,197 | 121,200 | 23.00-131.88 | 62.13 |
| 1993 | | | | |
| Granted | 119,725 | - | 133.88-141.50 | 134.00 |
| Exercised | (40,540) | (5,800) | 35.25-105.13 | 50.78 |
| Cancelled | (3,150) | (2,200) | 53.00-133.88 | 96.87 |
| At year-end | 507,232 | 113,200 | 23.00-141.50 | 76.55 |
| 1994 | | | | |
| Granted | 142,449 | - | 139.50-150.50 | 139.96 |
| Exercised | (33,944) | (22,600) | 35.25- 70.00 | 52.43 |
| Cancelled | (4,500) | - | 105.13-139.50 | 131.24 |
| At year-end | 611,237 | 90,600 | 23.00-150.50 | 91.01 |
| Exercisable at December 31, 1994 | 274,392 | 68,800 | $ 23.00-141.50 | $ 58.41 |

10. Stock option plan, continued

At December 31, 1994 and 1993, respectively, there were 137,721 and 275,670 shares available for future grant. A total of 1,500,000 shares were authorized under the plan.

11. Pension plans and other postretirement benefits

The Company has a noncontributory defined benefit pension plan covering substantially all full-time employees. Pension benefits accrue to participants based on their level of compensation and number of years of service. With respect to employees added as a result of the acquisitions completed in 1994, service with the acquired entities was counted in the pension formula for vesting, but not for benefit accrual purposes. The Company contributes to the pension plan amounts sufficient to meet Internal Revenue Code funding standards.

Net periodic pension cost (benefit) consisted of the following:

| | 1994 | 1993 | 1992 |
|---|---|---|---|
| | (in thousands) | | |
| Service cost | $4,148 | 3,075 | 2,357 |
| Interest cost on projected benefit obligation | 5,823 | 4,904 | 4,569 |
| Actual return on assets | 1,487 | (8,217) | (6,022) |
| Net amortization and deferral | (9,541) | 293 | (1,601) |
| Net periodic pension cost (benefit) | $1,917 | 55 | (697) |

Data relating to the funding position of the pension plan were as follows:

| | 1994 | 1993 |
|---|---|---|
| | (in thousands) | |
| Vested accumulated benefit obligation | $(60,307) | (64,169) |
| Total accumulated benefit obligation | (62,351) | (66,317) |
| Projected benefit obligation | (75,735) | (81,943) |
| Plan assets at fair value | 88,215 | 93,601 |
| Plan assets in excess of projected benefit obligation | 12,480 | 11,658 |
| Unrecognized net asset | (2,917) | (3,775) |
| Unrecognized past service cost | (538) | - |
| Unrecognized net (gain) loss | (284) | 2,775 |
| Pension asset | $ 8,741 | 10,658 |

The assumed rates used in the actuarial computations were as follows:

| | 1994 | 1993 |
|---|---|---|
| Discount rate | 8.00% | 7.00% |
| Rate of increase in future compensation levels | 5.00% | 5.00% |
| Long-term rate of return on assets | 8.00% | 8.25% |

In addition, the Company has an unfunded supplemental pension plan for certain key executives. Net periodic pension cost was $341,000, $159,000 and $151,200 in 1994, 1993 and 1992, respectively.

The Company also provides health care and life insurance benefits for qualified retired employees who reached the age of 55 while working for the Company. Substantially all salaried employees are covered in the plan.

11. Pension plans and other postretirement benefits, continued

Net postretirement benefit cost consisted of the following:

| | 1994 | 1993 | 1992 |
|---|---|---|---|
| | (in thousands) | | |
| Service cost | $ 136 | 94 | 48 |
| Interest cost on projected benefit obligation | 1,059 | 1,094 | 1,057 |
| Actual return on assets | (1) | (364) | (394) |
| Net amortization and deferral | (452) | (281) | (592) |
| Net postretirement benefit cost | $ 742 | 543 | 119 |

Data relating to the funding position of the plan were as follows:

| | 1994 | 1993 |
|---|---|---|
| | (in thousands) | |
| Accumulated benefit obligation: | | |
| Retirees | $12,611 | 15,196 |
| Active employees | | |
| Fully eligible | 1,477 | 1,695 |
| Other | 800 | 1,180 |
| Plan assets at fair value | (7,580) | (8,621) |
| Accumulated benefit obligation in excess of plan assets | 7,308 | 9,450 |
| Unrecognized net loss | (2,019) | (5,637) |
| Unrecognized past service cost | 2,651 | 2,855 |
| Accrued postretirement benefit cost | $ 7,940 | 6,668 |

The Company on occasion funds a portion of these postretirement benefit obligations through contributions to a Voluntary Employee Benefit Association trust account.

The assumed rates used in the actuarial computations were as follows:

| | 1994 | 1993 |
|---|---|---|
| Discount rate | 8.0% | 7.0% |
| Long-term rate of return on assets | 8.0% | 8.0% |
| Medical inflation rate | 14.0% | 14.5% |

The medical inflation rate was assumed to gradually reduce to 5.5% over twenty years.

The Company's 1994 service cost, interest cost and accumulated benefit obligation, assuming a 1% increase in the medical inflation rate assumption, are depicted as follows:

| | (in thousands) |
|---|---|
| Accumulated postretirement benefit obligation | $15,994 |
| Service cost | 136 |
| Interest cost | 1,137 |

## 12. Income taxes

The components of income tax expense were as follows:

| | 1994 | 1993 | 1992 |
|---|---|---|---|
| | (in thousands) | | |
| Current | | | |
| Federal | $58,801 | 69,744 | 65,672 |
| State and city | 21,251 | 25,487 | 27,037 |
| Total current | 80,052 | 95,231 | 92,709 |
| Deferred | | | |
| Federal | (3,424) | (18,124) | (19,919) |
| State and city | 558 | (5,576) | (7,949) |
| Total deferred | (2,866) | (23,700) | (27,868) |
| Total income taxes applicable to pre-tax income | $77,186 | 71,531 | 64,841 |

The Company files a consolidated tax return which includes all subsidiaries. East New York may elect to compute its bad debt deduction for tax purposes as a percentage of taxable income. Applicable federal tax law allows qualified savings banks the option of deducting as bad debt expense 8% of their taxable income. However, failure to maintain savings bank status as defined by the Internal Revenue Code or charges to the reserve established by these deductions for other than bad debt losses would create taxable income, subject to the applicable tax rates in effect at that time. At December 31, 1994, East New York's bad debt reserve for federal tax purposes was $45,460,000. No actions are planned which would cause this reserve to become wholly or partially taxable.

The portion of income tax expense attributable to gains on sales of bank investment securities was $53,000 in 1994, $392,000 in 1993 and $12,016,000 in 1992. No alternative minimum tax expense was recognized in any year.

Total income taxes differed from the amount computed by applying the statutory federal income tax rate to pre-tax income as follows:

| | 1994 | 1993 | 1992 |
|---|---|---|---|
| | (in thousands) | | |
| Income taxes at statutory rate | $68,068 | 60,733 | 55,345 |
| Increase (decrease) in taxes: | | | |
| Tax-exempt income | (5,758) | (2,066) | (3,138) |
| State and city income taxes, net of federal income tax effect | 14,176 | 12,942 | 12,598 |
| Other | 700 | (78) | 36 |
| | $77,186 | 71,531 | 64,841 |

12. Income taxes, continued

Deferred tax assets (liabilities) were comprised of the following at December 31:

| | 1994 | 1993 | 1992 |
|---|---|---|---|
| | | (in thousands) | |
| Interest on loans | $ 6,593 | 7,115 | 6,811 |
| Gain on sales of loans | - | 2,207 | 2,571 |
| Depreciation and amortization | 4,652 | 3,477 | 2,897 |
| Losses on loans and other assets | 96,128 | 76,783 | 54,747 |
| Postretirement and other supplemental employee benefits | 6,382 | 5,969 | 5,311 |
| Incentive compensation plans | 9,242 | 9,247 | 7,282 |
| Purchase accounting adjustments | 3,649 | - | - |
| Unrealized investment losses | 37,966 | - | - |
| Other | 5,561 | 3,060 | 3,765 |
| Gross deferred tax assets | 170,173 | 107,858 | 83,384 |
| Retirement benefits | (3,801) | (4,904) | (4,552) |
| Leasing transactions | (69,469) | (72,019) | (71,597) |
| Restructured interest rate swap agreements | (16,950) | - | - |
| Unrealized investment gains | - | (6,657) | - |
| Other | ( 4,538) | - | - |
| Gross deferred tax liabilities | (94,758) | (83,580) | (76,149) |
| Net deferred asset | $ 75,415 | 24,278 | 7,235 |

The income tax credits shown in the Statement of Income of the Parent Company arise principally from operating losses before dividends from subsidiaries.

13. Other income and other expense

The following items, which exceeded 1% of total revenues in the respective period, were included in either other revenues from operations or other costs of operations in the Consolidated Statement of Income:

| | 1994 | 1993 | 1992 |
|---|---|---|---|
| | | (in thousands) | |
| Other income: | | | |
| Residential mortgage servicing fees | $13,125 | 10,359 | |
| Transfer of investment securities to charitable foundation | 10,439 | | |
| Other expense: | | | |
| Professional services | | | |
| Data processing | | | 14,343 |
| Other | | | 5,362 |
| Advertising | 11,067 | 9,069 | |
| Charitable contributions | 15,652 | | |
| Write-downs of mortgage servicing rights | | | 16,800 |

14. International activities

The Company engages in certain international activities consisting primarily of purchasing Eurodollar placements, collecting Eurodollar deposits and engaging in a limited amount of foreign currency trading.

At December 31, 1994 and 1993, assets identified with international activities amounted to $7,172,000 and $62,419,000, respectively.

## 15. Derivative financial instruments

As part of an overall interest rate risk management program, the Company has entered into several interest rate swap agreements. The swaps modify the repricing characteristics of certain portions of the Company's loan and deposit portfolios. In general, under terms of the agreements the Company receives a fixed rate of interest and pays a variable rate based on London Inter-Bank Offered Rates ("LIBOR"). Interest rate swap agreements are generally entered into with counterparties with substantial net worth and most contain collateral provisions protecting the at-risk party. The Company considers the credit risk inherent in these contracts to be negligible. Interest rate swaps entered into for interest rate risk management purposes were as follows:

| | Notional amount (in thousands) | Average expected maturity (in years) | Weighted-average rate Fixed (receive) | Weighted-average rate Variable (pay) | Estimated fair value-gain(loss) (in thousands) |
|---|---|---|---|---|---|
| December 31, 1994 | | | | | |
| Current: | | | | | |
| Amortizing | $1,000,000 | 2.46 | 5.84% | 6.12% | $ (57,332) |
| Non-amortizing | 1,388,000 | 2.99 | 6.11 | 6.03 | (61,747) |
| | $2,388,000 | 2.77 | 5.99% | 6.07% | $(119,079) |
| December 31, 1993 | | | | | |
| Current: | | | | | |
| Amortizing | $ 836,294 | 1.89 | 5.88% | 3.43% | $ 10,690 |
| Non-amortizing | 400,000 | 2.09 | 5.24 | 3.41 | 5,375 |
| | $1,236,294 | 1.95 | 5.67% | 3.42% | $ 16,065 |
| Forward-starting: | | | | | |
| Amortizing | $ 400,000 | 3.25 | 5.99% | - | $ (906) |
| Non-amortizing | 75,000 | 2.50 | 5.34 | - | 412 |
| | $ 475,000 | 3.13 | 5.89% | - | $ (494) |

The notional amount of an amortizing swap may, following an initial lock-out period, vary depending on the level of interest rates or the repayment behavior of mortgage-backed securities to which the swap is indexed. The notional amount of a non-amortizing swap does not change during the term of an agreement.

The estimated fair value of interest rate swap agreements represents the amount the Company would have expected to receive (pay) to terminate such contracts. Since these swaps have been entered into for interest rate risk management purposes, the estimated market appreciation or depreciation should be considered in the context of the entire balance sheet of the Company. The estimated fair value of interest rate swaps entered into for interest rate risk management purposes is not recognized in the consolidated financial statements.

The net effect of interest rate swaps was to increase net interest income by $12,481,000, $34,242,000, and $20,063,000 during the years ended December 31, 1994, 1993, and 1992, respectively. The average notional amount

15. Derivative financial instruments, continued

of interest rate swaps impacting net interest income which were entered into for interest rate risk management purposes were $1,627,454,000, $1,213,886,000 and $502,452,000 during the years ended December 31, 1994, 1993, and 1992, respectively.

During December 1994, the Company restructured several interest rate swap agreements with a notional amount of $500 million from amortizing to non-amortizing. The purpose of the restructuring was to enhance the effectiveness of the swaps in managing the Company's exposure to changing interest rates in future years. The restructuring did not have a significant effect on net income in 1994. A deferred loss of $40.2 million on the amortizing swaps and a purchase discount of $40.2 million on the restructured non-amortizing swaps were recognized as a result of this transaction and were included in the carrying amount of loans which the swaps modified. The deferred loss will be amortized and the purchase discount accreted into interest income over the remaining terms of the original swaps and restructured swaps, respectively. The net increase (decrease) in interest income from amortization and accretion of such amounts in future years is as follows:

| Year ending December 31: | (in thousands) |
|---|---|
| 1995 | $(1,946) |
| 1996 | (1,946) |
| 1997 | (1,946) |
| 1998 | (525) |
| 1999 | 5,960 |
| 2000 | 403 |
| | - |

Derivative financial instruments used for trading purposes included foreign exchange and other option contracts, foreign exchange forward and spot contracts, interest rate swap agreements and financial futures. The following table includes information about the estimated fair value of derivative financial instruments used for trading purposes:

| | 1994 | 1993 |
|---|---|---|
| | (in thousands) | |
| December 31: | | |
| Gross unrealized gains | $1,673 | 1,397 |
| Gross unrealized losses | 1,689 | 1,592 |
| Year ended December 31: | | |
| Average gross unrealized gains | $1,842 | 3,005 |
| Average gross unrealized losses | 1,558 | 2,888 |

Net gains (losses) arising from derivative financial instruments used for trading purposes were $(336,000), $219,000 and $2,685,000 during the years ended December 31, 1994, 1993 and 1992, respectively.

## 16. Commitments and contingencies

In the normal course of business, various commitments and contingent liabilities are outstanding, such as commitments to extend credit guarantees, and "standby" letters of credit (approximately $150,219,000 and $152,604,000 at December 31, 1994 and 1993, respectively) which are not reflected in the consolidated financial statements. No material losses are expected as a result of these transactions. Additionally, the Company had outstanding loan commitments of approximately $1.6 billion and $1.4 billion at December 31, 1994, and 1993, respectively.

Because many loan commitments and almost all credit guarantees and "standby" letters of credit expire without being funded in whole or part, the contract amounts are not estimates of future cash flows. Commitments to sell one-to-four family residential mortgage loans totaled $74,614,000 at December 31, 1994 and $373,369,000 at December 31, 1993.

In the opinion of management, the potential liabilities, if any, arising from all lawsuits pending against the Company at December 31, 1994 will not have a materially adverse impact on the Company's consolidated financial condition. Moreover, management believes that the Company has substantial defenses in such litigation, but that there can be no assurance that the potential liabilities, if any, arising from such litigation will not have a materially adverse impact on the Company's consolidated results of operations in the future.

## 17. Regulatory restrictions

The payment of dividends by the banking subsidiaries is restricted by various legal and regulatory limitations. Dividends by any banking subsidiary to the Parent Company are limited by the amount of earnings of the banking subsidiary in the current year and the preceding two years. For purposes of this test, at December 31, 1994, approximately $200,351,000 and $11,804,000 was available for payment of dividends to the Parent Company from M&T Bank and East New York, respectively, without prior regulatory approval.

Banking regulations prohibit extensions of credit by the subsidiary banks to the Parent Company unless appropriately secured by assets. Securities of affiliates are not eligible as collateral for this purpose.

The banking subsidiaries are required to maintain noninterest-earning reserves against deposit liabilities. During the maintenance periods that included December 31, 1994 and 1993, cash and due from banks included a daily average of $158,342,000 and $159,742,000, respectively, for such purpose.

## 18. Parent Company revolving credit agreement

The Parent Company has a revolving credit agreement with an unaffiliated commercial bank whereby the Parent Company may borrow up to $25,000,000 at its discretion through December 26, 1995. The agreement provides for a facility fee assessed on the entire amount of the commitment (whether or not utilized) ranging from 3/16 to 5/16 of 1% depending on the credit rating of the subordinated notes of M&T Bank. Various interest rate options exist, including a variable rate based upon the higher of the Federal funds rate plus 1/4 of 1%, or the lender's prime rate, or a fixed rate based upon LIBOR. Borrowings outstanding under the credit agreement at December 31, 1994 were $3.0 million at a rate of 6.50%. These borrowings were recorded as other short-term borrowings in the Consolidated Balance Sheet.

19. Parent Company financial statements
See other notes to financial statements.

CONDENSED BALANCE SHEET

| Dollars in thousands | December 31 1994 | 1993 |
|---|---|---|
| Assets | | |
| Cash | | |
| In subsidiary bank | $ 175 | 91 |
| Other | 18 | 18 |
| Total cash | 193 | 109 |
| Due from subsidiaries | | |
| Money-market assets | 1,257 | 9,351 |
| Current income tax receivable | 6,792 | 410 |
| Total due from subsidiaries | 8,049 | 9,761 |
| Investments in subsidiaries | | |
| Banks | 706,801 | 702,823 |
| Other | 6 | 6 |
| Other assets | 9,030 | 15,066 |
| Total assets | $ 724,079 | 727,765 |
| Liabilities | | |
| Short-term borrowings | $ 3,000 | - |
| Accrued expenses and other liabilities | 83 | 3,771 |
| Total liabilities | 3,083 | 3,771 |
| Stockholders' equity | 720,996 | 723,994 |
| Total liabilities and stockholders' equity | $ 724,079 | 727,765 |

CONDENSED STATEMENT OF INCOME

| Dollars in thousands, except per share | Year ended December 31 1994 | 1993 | 1992 |
|---|---|---|---|
| Income | | | |
| Dividends from bank subsidiaries | $ 59,300 | 23,000 | 21,000 |
| Other income | 11,493 | 665 | 421 |
| Total income | 70,793 | 23,665 | 21,421 |
| Expense | | | |
| Interest on short-term borrowings | 3 | 29 | 565 |
| Other expense | 17,739 | 1,979 | 1,829 |
| Total expense | 17,742 | 2,008 | 2,394 |
| Income before income taxes and equity in undistributed income of subsidiaries | 53,051 | 21,657 | 19,027 |
| Parent Company income tax credits | 7,087 | 688 | 879 |
| Income before equity in undistributed income of subsidiaries | 60,138 | 22,345 | 19,906 |
| Equity in undistributed income of subsidiaries | | | |
| Net income | | | |
| Bank subsidiaries | 116,457 | 102,642 | 99,031 |
| Other subsidiaries | - | 5 | - |
| Less: dividends received | (59,300) | (23,000) | (21,000) |
| Equity in undistributed income of subsidiaries | 57,157 | 79,647 | 78,031 |
| Net income | $ 117,295 | 101,992 | 97,937 |
| Net income per common share | $16.35 | 13.87 | 13.41 |

19. Parent Company financial statements, continued

CONDENSED STATEMENT OF CASH FLOWS

| Dollars in thousands | | Year ended December 31 1994 | 1993 | 1992 |
|---|---|---|---|---|
| **Cash flows from operating activities** | | | | |
| Net income | $ | 117,295 | 101,992 | 97,937 |
| Adjustments to reconcile net income to net cash provided by operating activities | | | | |
| Equity in undistributed income of subsidiaries | | (57,157) | (79,647) | (78,031) |
| Provision for deferred income taxes | | (206) | (82) | (20) |
| Net gain on sales of assets | | (128) | - | - |
| Net change in accrued income and expense | | (6,570) | 5,009 | 1,344 |
| Transfer of noncash assets to charitable foundation | | 5,213 | - | - |
| Net cash provided by operating activities | | 58,447 | 27,272 | 21,230 |
| **Cash flows from investing activities** | | | | |
| Other investments, net | | (8,199) | (1,809) | (6) |
| Net cash used by investing activities | | (8,199) | (1,809) | (6) |
| **Cash flows from financing activities** | | | | |
| Net increase (decrease) in short-term borrowings | | 3,000 | (3,500) | (8,500) |
| Purchases of treasury stock | | (43,964) | - | - |
| Dividends paid - common | | (14,743) | (13,054) | (10,780) |
| Dividends paid - preferred | | (3,600) | (3,600) | (3,600) |
| Other, net | | 1,049 | 1,788 | 3,172 |
| Net cash used by financing activities | | (58,258) | (18,366) | (19,708) |
| Net increase (decrease) in cash and cash equivalents | $ | (8,010) | 7,097 | 1,516 |
| Cash and cash equivalents at beginning of year | | 9,460 | 2,363 | 847 |
| Cash and cash equivalents at end of year | $ | 1,450 | 9,460 | 2,363 |
| **Supplemental disclosure of cash flow information** | | | | |
| Interest received during the year | $ | 932 | 658 | 421 |
| Interest paid during the year | | 1 | 46 | 600 |
| Income taxes received during the year | | 510 | 5,462 | 2,399 |

Item 9. Changes In and Disagreements With Accountants on Accounting and Financial Disclosure. None.

PART III
--------

Item 10. Directors and Executive Officers of the Registrant. The identification of the Registrant's directors is incorporated by reference to the caption "NOMINEES FOR DIRECTOR" contained in the Registrant's definitive Proxy Statement for its 1995 Annual Meeting of Stockholders, which was filed with the Securities and Exchange Commission on March 16, 1995. The identification of the Registrant's executive officers is presented under the caption "Executive Officers of the Registrant" contained in Part I of this Annual Report on Form 10-K.

Disclosure of compliance with Section 16(a) of the Securities Exchange Act of 1934, as amended, by the Registrant's directors and executive officers, and persons who are the beneficial owners of more than 10% of the Registrant's common stock, is incorporated by reference to the caption "STOCK OWNERSHIP BY DIRECTORS AND EXECUTIVE OFFICERS" contained in the Registrant's definitive Proxy Statement for its 1995 Annual Meeting of Stockholders.

Item 11. Executive Compensation. Incorporated by reference to the Registrant's definitive Proxy Statement for its 1995 Annual Meeting of Stockholders, which was filed with the Securities and Exchange Commission on March 16, 1995.

Item 12. Security Ownership of Certain Beneficial Owners and Management. Incorporated by reference to the Registrant's definitive Proxy Statement for its 1995 Annual Meeting of Stockholders, which was filed with the Securities and Exchange Commission on March 16, 1995.

Item 13. Certain Relationships and Related Transactions. Incorporated by reference to the Registrant's definitive Proxy Statement for its 1995 Annual Meeting of Stockholders, was filed with the Securities and Exchange Commission on March 16, 1995.

## PART IV

Item 14. Exhibits, Financial Statement Schedules and Reports on Form 8-K.

(a) Financial statements and financial statement schedules filed as part of this Annual Report on Form 10-K. See Part II, Item 8. "Financial Statements and Supplementary Data".

The financial statement schedules required by Rule 9-07 under Regulation S-X are omitted because the required information is not applicable.

(b) Reports on Form 8-K.

The Registrant filed a Current Report on Form 8-K dated December 14, 1994 with the Securities and Exchange Commission on December 14, 1994, reporting that on December 1, 1994, the Registrant consummated the acquisition of Ithaca Bancorp, Inc., Ithaca, New York, and the merger of its savings bank subsidiary, Citizens Savings Bank, F.S.B., into M&T Bank. The Current Report on Form 8-K further disclosed that M&T Bank consummated the acquisition of six banking offices in Orange County and one branch in Rockland County from Chemical Bank on December 10, 1994.

(c) Exhibits required by Item 601 of Regulation S-K.

The exhibits listed on the Exhibit Index on pages 84 and 85 of this Annual Report on Form 10-K have been previously filed, are filed herewith or are incorporated herein by reference to other filings.

(d) Additional financial statement schedules.

None.

## SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on the 16th day of March, 1995.

FIRST EMPIRE STATE CORPORATION

By: /s/ Robert G. Wilmers

Robert G. Wilmers
Chairman of the Board,
President and
Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

| Signature | Title | Date |
| --- | --- | --- |
| Principal Executive Officer: | | |
| /s/ Robert G. Wilmers<br>Robert G. Wilmers | Chairman of the Board, President and Chief Executive Officer | 3/16/95 |
| Principal Financial and Accounting Officer: | | |
| /s/ James L. Vardon<br>James L. Vardon | Executive Vice President and Chief Financial Officer | 3/16/95 |

A majority of the board of directors:

| | |
|---|---|
| /s/ Brent D. Baird | 3/16/95 |
| Brent D. Baird | |
| /s/ John H. Benisch | 3/16/95 |
| John H. Benisch | |
| /s/ C. Angela Bontempo | 3/16/95 |
| C. Angela Bontempo | |
| | |
| Robert T. Brady | |
| /s/ Patrick J. Callan | 3/16/95 |
| Patrick J. Callan | |
| /s/ David N. Campbell | 3/16/95 |
| David N. Campbell | |
| /s/ James A. Carrigg | 3/16/95 |
| James A. Carrigg | |
| /s/ Barber B. Conable, Jr. | 3/16/95 |
| Barber B. Conable, Jr. | |
| /s/ Richard E. Garman | 3/16/95 |
| Richard E. Garman | |
| /s/ James V. Glynn | 3/16/95 |
| James V. Glynn | |
| | |
| Roy M. Goodman | |
| /s/ Patrick W.E. Hodgson | 3/16/95 |
| Patrick W.E. Hodgson | |
| | |
| Samuel T. Hubbard, Jr. | |
| /s/ Lambros J. Lambros | 3/16/95 |
| Lambros J. Lambros | |
| /s/ Wilfred J. Larson | 3/16/95 |
| Wilfred J. Larson | |

| | |
|---|---|
| /s/ Jorge G. Pereira | 3/16/95 |
| Jorge G. Pereira | |
| /s/ William C. Shanley, III | 3/16/95 |
| William C. Shanley, III | |
| /s/ Raymond D. Stevens, Jr. | 3/16/95 |
| Raymond D. Stevens, Jr. | |
| /s/ Peter Tower | 3/16/95 |
| Peter Tower | |
| /s/ Richard D. Trent | 3/16/95 |
| Richard D. Trent | |
| /s/ John L. Wehle, Jr. | 3/16/95 |
| John L. Wehle. Jr. | |
| /s/ Robert G. Wilmers | 3/16/95 |
| Robert G. Wilmers | |

EXHIBIT INDEX

| | |
|---|---|
| 3.1 | Restated Certificate of Incorporation of First Empire State Corporation dated April 19, 1989, filed by the Secretary of State of New York on April 20, 1989. Incorporated by reference to Exhibit No. 19 to the Form 10-Q for the quarter ended March 31, 1989 (File No. 1-9861). |
| 3.2 | Certificate of Amendment of the Certificate of Incorporation of First Empire State Corporation dated March 13, 1991, filed by the Secretary of State of New York on March 14, 1991. Incorporated by reference to Exhibit No. 19 to the Form 10-Q for the quarter ended March 31, 1991 (File No. 1-9861). |
| 3.3 | By-Laws of First Empire State Corporation as last amended on July 16, 1991. Incorporated by reference to Exhibit No. 3.2 to the Form 10-K for the year ended December 31, 1991 (File No. 1-9861). |
| 4 | Instruments defining the rights of security holders, including indentures. Incorporated by reference to Exhibit Nos. 3.1, 3.2, 3.3, 10.1, 10.2 and 10.3 hereof. |
| 10.1 | Credit Agreement, dated as of December 30, 1993, between First Empire State Corporation and The Chase Manhattan Bank, N.A. Incorporated by reference to Exhibit No. 10.1 to the Form 10-K for the year ended December 31, 1993 (File No. 1-9861). |
| 10.2 | Amendment No. 1, dated as of December 27, 1994, to the Credit Agreement, dated as of December 30, 1993, between First Empire State Corporation and The Chase Manhattan Bank, N.A. Filed herewith. |
| 10.3 | First Empire State Corporation 1983 Stock Option Plan as amended. Incorporated by reference to Exhibit No. 10.3 to the Form 10-K for the year ended December 31, 1991 (File No. 1-9861). |
| 10.4 | First Empire State Corporation Annual Executive Incentive Plan. Incorporated by reference to Exhibit No. 10.4 to the Form 10-K for the year ended December 31, 1992 (File No. 1 - 9861). |
| | Supplemental Deferred Compensation Agreements between Manufacturers and Traders Trust Company and: |
| 10.5 | Robert E. Sadler, Jr. and James L. Vardon, each dated as of March 7, 1985. Incorporated by reference to Exhibit Nos. (10)(d) (A) and (B), respectively, to the Form 10-K for the year ended December 31, 1984 (File No. 0-4561); |
| 10.6 | Harry R. Stainrook dated as of December 12, 1985. Incorporated by reference to Exhibit No. (10)(e)(ii) to the Form 10-K for the year ended December 31, 1985 (File No. 0-4561); |
| 10.7 | William C. Rappolt dated as of March 7, 1985. Incorporated by reference to Exhibit No. (10)(e)(iv) to the Form 10-K for the year ended December 31, 1987 (File No. 1-9861); and |
| 10.8 | William A. Buckingham dated as of August 7, 1990. Incorporated by reference to Exhibit No. 10.8 to the Form 10-K for the year ended December 31, 1990 (File No. 1-9861). |

| | |
|---|---|
| 10.9 | Salary Continuation Agreement, dated as of April 16, 1987, between The East New York Savings Bank and Paul B. Murray. Incorporated by reference to Exhibit No. (10)(f) to the Form 10-K for the year ended December 31, 1987 (File No. 1-9861). |
| 10.10 | Employment Agreement, dated as of December 24, 1987, among First Empire State Corporation, The East New York Savings Bank and Paul B. Murray. Incorporated by reference to Exhibit No. (10)(g) to the Form 10-K for the year ended December 31, 1987 (File No. 1-9861). |
| 10.11 | Supplemental Deferred Compensation Agreement, dated July 17, 1989, between The East New York Savings Bank and Atwood Collins, III. Incorporated by reference to Exhibit No. 10.11 to the Form 10-K for the year ended December 31, 1991 (File No. 1-9861). |
| 10.12 | First Empire State Corporation Supplemental Pension Plan. Filed herewith. |
| 10.13 | First Empire State Corporation Supplemental Retirement Savings Plan. Filed herewith. |
| 11 | Statement re: Computation of Earnings Per Common Share. Filed herewith. |
| 21 | Subsidiaries of the Registrant. Incorporated by reference to the caption "Subsidiaries" contained in Part I, Item 1 hereof. |
| 23.1 | Consent of Price Waterhouse re: Registration Statement No. 33-32044. Filed herewith. |
| 23.2 | Consent of Price Waterhouse re: Registration Statements Nos. 33-12207 and 33-58500. Filed herewith. |
| 27 | Article 9 Financial Data Schedule for the year ended December 31, 1994. Filed herewith. |
| 99.1 | First Empire State Corporation Retirement Savings Plan and Trust Financial Statements and Additional Information for the years ended December 31, 1994 and 1993. Filed herewith. |

Exhibit 10.2

# AMENDMENT NO. 1

AMENDMENT NO. 1 dated as of December 27, 1994 between FIRST EMPIRE STATE CORPORATION, a corporation duly organized and validly existing under the laws of the State of New York (the "Borrower"), and THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION), a national banking association (the "Bank").

The Borrower and the Bank are parties to a Credit Agreement dated as of December 30, 1993 (as heretofore modified, supplemented, amended and in effect on the date hereof, the "Credit Agreement"), providing, subject to the terms and conditions thereof, for extensions of credit to be made by the Bank to the Borrower in an aggregate principal amount not exceeding $25,000,000. The Borrower and the Bank wish to amend the Credit Agreement in certain respects. Accordingly, the parties hereto hereby agree as follows:

Section 1. Definitions. Except as otherwise defined in this Amendment No. 1, terms defined in the Credit Agreement are used herein as defined therein.

Section 2. Amendments. Effective upon the execution and delivery hereof by the Borrower and the Bank:

(a) Section 1.01 of the Credit Agreement shall be amended by deleting the definition of "Termination Date" and inserting in place thereof the following definition:

> "Termination Date" means December 26, 1995; provided that if such date is not a Banking Day, the Termination Date shall be the next preceding Banking Day.

(b) Section 1.02 of the Credit Agreement shall be amended to read in its entirety as follows:

> Section 1.02. Accounting Terms. All accounting terms not specifically defined herein shall be construed in accordance with GAAP or RAP, in the case of Sections 8.01 and 8.02, and all financial data required to be delivered hereunder shall be prepared in accordance with GAAP or RAP.

(c) Section 2.11 of the Credit Agreement shall be amended by eliminating the "(a)" immediately following the section title, and by deleting clause (b) of Section 2.11 in its entirety.

(d) Section 5.04 of the Credit Agreement shall be amended by eliminating the phrase beginning with "except" immediately following the word "Facility Documents" and replacing it with a period.

(e) The list of Significant Subsidiaries furnished as Schedule I and referred to in Section 5.09 is replaced by a new Schedule I in the form annexed hereto.

(f) Section 8.01 of the Credit Agreement shall be deleted and replaced with the following:

> Section 8.01. Minimum Tier 1 Capital. The Borrower shall maintain at all times Tier 1 Capital of not less than $560,000,000.

> Section 3. Representations and Warranties. The Borrower represents and warrants to the Bank that the representations and warranties set forth in Article 5 of the Credit Agreement as amended hereby are true and complete on the date hereof as if made on and as of the date hereof.

Section 4. Cross References. After the effective date hereof, each reference in any Facility Document to the Credit Agreement shall be a reference to the Credit Agreement as amended hereby.

Section 5. Miscellaneous. Except as herein provided, the Credit Agreement shall remain unchanged and in full force and effect. This Amendment No. 1 may be executed in counterparts, which taken together shall constitute one and the same amendatory instrument. This Amendment No. 1 shall be governed by, and construed in accordance with, the law of the State of New York.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 1 to be duly executed as of the day and year first written above.

FIRST EMPIRE STATE CORPORATION

By /s/ Gary S. Paul
---------------------------
Gary S. Paul
Senior Vice President

THE CHASE MANHATTAN BANK
(NATIONAL ASSOCIATION)

By /s/ Susan F. Herzog
---------------------------
Susan F. Herzog
Vice President

Exhibit 10.12

FIRST EMPIRE STATE CORPORATION

SUPPLEMENTAL PENSION PLAN

ARTICLE I
PURPOSE

1.1 The purpose of this First Empire State Corporation Supplemental Pension Plan (the "Supplemental Pension Plan") is to provide for the payment of supplemental retirement benefits to select management and highly compensated employees of certain affiliates of First Empire State Corporation (the "Employers"), whose benefits payable under the First Empire State Corporation Retirement Plan (the "Retirement Plan") are subject to certain benefit limitations imposed by Section 401(a)(17) of the Internal Revenue Code, as amended (the "Code"). The Employers intend and desire that this Supplemental Pension Plan, together with the other elements of the Employers' compensation programs, will attract, retain and motivate eligible employees.

# ARTICLE II
# DEFINITIONS

All terms used herein with initial capital letters which are defined in the Retirement Plan shall have the meanings assigned to them under the provisions of the Retirement Plan unless otherwise specified herein or as otherwise qualified by the context in which the term is used in this Supplemental Pension Plan.

2.1 For the purposes of this Supplemental Pension Plan, the following words and phrases shall have the meanings indicated unless a different meaning is clearly required by the context. Any terms used herein in the masculine shall be read and construed in the feminine where they would so apply, and any terms used in the singular shall be read and construed in the plural if appropriate.

(a) "Committee" shall mean the Committee charged with the administration of this Supplemental Pension Plan under Article VI.

(b) "Company" shall mean Manufacturers and Traders Trust Company or any successor by merger, purchase or otherwise.

(c) "Compensation" shall mean the amount so defined in the Retirement Plan, plus any amounts deferred by a Participant under the First Empire State Corporation Supplemental Retirement Savings Plan.

(d) "Compensation Limitation" shall mean, for any given year beginning on and after January 1, 1994, $150,000, as adjusted to and including such given year of determination in the manner provided under Code Section 401(a)(17).

(e) "Employee" shall mean any common law employee of an Employer.

(f) "Employer" shall mean any affiliate of First Empire State Corporation that participates in the Retirement Plan.

(g) "Participant" shall mean an Employee who has become a Participant in accordance with Section 3.2. Participant shall also include a former Employee who had met the foregoing criteria as an Employee and who is, at the time of determination, receiving a benefit (or entitled to receive a benefit) from this Supplemental Pension Plan.

(h) "Supplemental Pension Plan" shall mean this First Empire State Corporation Supplemental Pension Plan, as the same may be amended from time to time.

(i) "Supplemental Pension Plan Benefit" shall mean, to the extent applicable to any given Participant, the benefit determined under the provisions of Section 4.1.

## ARTICLE III
## ELIGIBILITY AND PARTICIPATION

3.1 Any Employee who is a member of a select group of management or highly compensated employees as designated by the Committee is eligible to participate in this Supplemental Pension Plan, provided, however, that any such Employee shall become a Participant hereunder only as provided under Section 3.2.

3.2 An Employee eligible to participate in this Supplemental Pension Plan under Section 3.1 shall become a Participant in this Supplemental Pension Plan as of the first day of the calendar year in which his benefit under the Retirement Plan is first affected by the Compensation Limitation. The determination of whether and at which time an Employee is affected by the Compensation Limitation and is eligible for participation herein shall be made by the Committee. Notwithstanding the foregoing, a Participant (or his surviving spouse or beneficiary) may become eligible for a Supplemental Pension Plan Benefit only in the event that:

(a) such individual is entitled to receive a benefit under the Retirement Plan; and

(b) payment of such Retirement Plan benefit is restricted by the application of Code Section 401(a)(17), as in effect on or after January 1, 1994.

# ARTICLE IV
## CALCULATION OF SUPPLEMENTAL PENSION PLAN BENEFIT

4.1 The annual Supplemental Pension Plan Benefit to a Participant eligible therefor under Section 3.2 (or to his surviving spouse or beneficiary or beneficiaries), shall be the result obtained by subtracting (b) from (a), where:

(a) equals the annual benefit which would have been payable to such Participant, or, on his behalf, to his surviving spouse or other beneficiary or beneficiaries under the Retirement Plan, if the provisions of the Retirement Plan were administered without regard to the annual limitation on Compensation set forth in Code Section 401(a)(17), but with Compensation capped at $235,840, and

(b) equals the annual benefit which is payable to such Participant, or, on his behalf, to his surviving spouse or other beneficiary or beneficiaries under the Retirement Plan.

The Supplemental Pension Plan Benefit payable under this Supplemental Pension Plan to, or on behalf of, a Participant shall be computed in accordance with the foregoing and with the objective that the Participant, his surviving spouse or other beneficiary or beneficiaries, should receive under the Supplemental Pension Plan and the Retirement Plan, the total amount which would otherwise have been payable to that recipient solely under the Retirement Plan as of the date payment is made, had the provisions of Code Section 401(a)(17) not been applicable thereto and using Compensation capped in the amount set forth above.

4.2 Notwithstanding any provision of this Supplemental Pension Plan to the contrary, the Supplemental Pension Plan Benefits provided under Article IV shall be determined and coordinated by the Committee so as to prevent any duplication of benefits under this Plan or any duplication of benefits under this Plan and benefits under any individual executive or supplemental agreement.

## ARTICLE V
## COMMENCEMENT AND FORM OF SUPPLEMENTAL PENSION PLAN BENEFIT

5.1 Supplemental Pension Plan Benefits hereunder shall become payable to a Participant, surviving spouse or beneficiary as of the date upon which such Participant, spouse or beneficiary is to commence to receive benefit payments under the Retirement Plan. Such Supplemental Pension Plan Benefits shall be payable in the form elected under the Retirement Plan. The payment provided hereunder shall be the Actuarial Equivalent of the Participant's Supplemental Pension Plan Benefit determined under the form elected under the Retirement Plan.

5.2 A Participant's designation of form of payment under the Retirement Plan shall be subject to the Committee's power, to be exercised at the Committee's discretion, to direct that any Supplemental Pension Plan Benefits payable to a Participant, surviving spouse or beneficiary be paid in a form of a lump sum payment as determined by the Committee.

5.3 The Supplemental Pension Plan Benefit payable hereunder to, or on behalf of, a Participant shall be paid by the Employer who last employed the Participant.

# ARTICLE VI
# ADMINISTRATION

6.1 The Committee shall be charged with the administration of this Supplemental Pension Plan. The members of the Committee shall be selected by the Company. The Committee shall have all such powers as may be necessary to discharge its duties relative to the administration of this Supplemental Pension Plan, including by way of illustration and not limitation, discretionary authority to interpret and construe this Supplemental Pension Plan, to decide any dispute arising hereunder, to determine the right of any Employee with respect to benefits payable hereunder and to adopt, alter and repeal such administrative rules, regulations and practices governing the operation of this Supplemental Pension Plan as it, in its sole discretion, may from time to time deem advisable. No member of the Committee shall be liable to any person for any action taken or omitted in connection with the interpretation and administration of this Supplemental Pension Plan unless attributable to willful misconduct or lack of good faith. The Committee shall be entitled to rely conclusively upon all tables, valuations, certificates, opinions and reports furnished by any actuary, accountant, controller, counsel or other person employed or engaged by the Committee or the Company with respect to this Supplemental Pension Plan. Members of the Committee shall not participate in any action or determination regarding solely their own benefits payable hereunder. Except as provided in Section 6.3, decisions of the Committee made in good faith shall be final, conclusive and binding upon all parties.

6.2 Whenever the Committee denies, in whole or in part, a claim for benefits filed by any person (hereinafter referred to as a "Claimant"), the Committee will provide a written notice setting forth, in a manner calculated to be understood by the Claimant, a statement of the specific reasons for the denial of the claim, references to the specific Supplemental Pension Plan provisions on which the denial is based, a description of any additional needed material or information and why such is necessary, and an explanation of the claims review procedure as set forth herein. In addition, such notice shall contain the date on which it was sent and a statement advising the Claimant that, within 90 days of the date of receipt of such notice, he may obtain review of the Committee's decision.

6.3 Within 90 days of the date on which the notice of denial of claim is received by the Claimant, the Claimant or his authorized representative may request that the claim denial be reviewed by filing with the Committee a written request therefor, which request shall contain the following information:

(a) the date on which the notice of denial of claim was received by the Claimant;

(b) the date on which the Claimant's request was filed with the Committee, provided, however, that the date on which the Claimant's request for review was in fact filed with the Committee shall control in the event that the date of the actual filing is later than the date stated by the Claimant pursuant to this clause (b);

(c) the specific portions of the denial of his claim which the Claimant requests the Committee to review;

(d) a statement by the Claimant setting forth the basis upon which he believes the Committee should reverse its previous denial of his claim for benefits and accept his claim as made; and

(e) any written material (included as exhibits) which the Claimant desires the Committee to examine in its consideration of his position as stated pursuant to clause (d).

Within 60 days of the date determined pursuant to clause (b) (or, if special circumstances require an extension of time, within 120 days of such date), the Committee shall conduct a full and fair review of the decision denying the Claimant's claim for benefits and shall deliver, to the Claimant in writing, its decision. Such written decision shall set forth, in a manner calculated to be understood by the Claimant, a statement of the specific reasons for its decision, including references to the specific provisions of this Supplemental Pension Plan which were relied upon. The decision will be final and binding on all persons concerned.

# ARTICLE VII
# AMENDMENT AND TERMINATION

7.1 The Employers expect to continue this Supplemental Pension Plan indefinitely, but reserve and delegate to the Company the right to amend or terminate this Supplemental Pension Plan at any time, if, in the Company's sole judgment, such amendment or termination is necessary or desirable. Any such amendment or termination shall be made in writing by the Board of Directors of the Company or its designee, if applicable, and shall be effective as of the date specified in such document. No amendment or termination of this Supplemental Pension Plan shall directly or indirectly deprive any Participant, surviving spouse or beneficiary of all or any portion of the Supplemental Pension Plan Benefits earned by the Participant as of the date of amendment or termination. In the event of a termination of this Supplemental Pension Plan, the Company (or any transferee, purchaser or successor entity) may elect, in its discretion, either to have the Employers make lump sum payments, at the time of such termination, equal to the Actuarial Equivalents of the Supplemental Pension Plan Benefits, accrued as of the date of such termination, to Participants, surviving spouses and beneficiaries or to have the Employers pay such benefits to such individuals at such time or times as provided under the terms of this Supplemental Pension Plan.

7.2 This Supplemental Pension Plan shall not be automatically terminated by a transfer or sale of an Employer or by the merger or consolidation of an Employer into or with any other corporation or other entity, but this Supplemental Pension Plan shall be continued with respect to such Employer or its successor after such sale, merger or consolidation only if and to the extent that the transferee, purchaser or successor entity agrees to continue this Supplemental Pension Plan. In the event this Supplemental Pension Plan is not continued with respect to such Employer or its successor by the transferee, purchaser or successor entity, then this Supplemental Pension Plan shall terminate with respect to such Employer or its successor subject to the provisions of Section 7.1.

ARTICLE VIII
MISCELLANEOUS

8.1 No Effect on Employment Rights. Nothing contained herein will confer upon any Participant the right to be retained in the service of an Employer nor limit the right of an Employer to discharge or otherwise deal with Participants without regard to the existence of this Supplemental Pension Plan.

8.2 Plan Unfunded. Notwithstanding any provision herein to the contrary, the benefits offered hereunder shall constitute nothing more than unfunded, unsecured promises by each Employer to pay the benefits determined hereunder that such Employer is obligated to pay under Section 5.3. No provision shall at any time be made with respect to segregating any assets of any Employer for payment of any benefits hereunder. No Participant, beneficiary or any other person shall have any interest in any particular assets of the Employers by reason of the right to receive a benefit under this Supplemental Pension Plan, and any such Participant, beneficiary or other person shall have only the rights of a general unsecured creditor of the Employer by whom the Participant was last employed with respect to any rights under this Supplemental Pension Plan. Nothing contained in this Supplemental Pension Plan shall constitute a guaranty by the Employers or any other entity or person that the assets of any Employer will be sufficient to pay any benefit hereunder. All expenses and fees incurred in the administration of this Supplemental Pension Plan shall be paid by the Employers.

8.3 Binding on Employers, Employees and Their Successors. This Supplemental Pension Plan shall be binding upon and inure to the benefit of the Employers, their successors and assigns and each Participant and his heirs, executors, administrators and legal representatives. In the event of the merger or consolidation of an Employer with or into any other corporation, or in the event substantially all of the assets of an Employer shall be transferred to another corporation, the successor corporation resulting from the merger or consolidation, or the transferee of such assets, as the case may be, shall, as a condition to the consummation of the merger, consolidation or sale, assume the obligations of such Employer hereunder with respect to benefits accrued as of the date of such merger, consolidation or transfer and shall be substituted for such Employer hereunder.

8.4 Spendthrift Provisions. No benefit payable under this Supplemental Pension Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge prior to actual receipt thereof by the payee; and any attempt so to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge prior to such receipt shall be void; and the Employers shall not be liable in any manner for or subject to the debts, contracts, liabilities, torts or engagements of any person entitled to any benefit under this Supplemental Pension Plan.

8.5 Disclosure. Each Participant shall receive a copy of this Supplemental Pension Plan, and the Committee will make available for inspection by any Participant a copy of the rules and regulations used by the Committee in administering this Supplemental Pension Plan.

8.6 State Law. This Supplemental Pension Plan is established under and will be construed according to the laws of the State of New York to the extent that such laws are not preempted by the Employee Retirement Income Security Act of 1974, as amended, and regulations promulgated thereunder.

8.7 Incapacity of Recipient. In the event a Participant, surviving spouse or beneficiary is declared incompetent and a guardian, conservator or other person legally charged with the care of his person or of his estate is appointed, any benefits under this Supplemental Pension Plan to which such Participant, spouse or beneficiary is entitled shall be paid to such guardian, conservator or other person legally charged with the care of his person or his estate. Except as provided herein, when the Committee, in its sole discretion, determines that a Participant, surviving spouse or beneficiary is unable to manage his financial affairs, the Committee may direct the Employer responsible for payment to make distributions to any person for the benefit of such Participant, spouse or beneficiary.

8.8 Unclaimed Benefit. Each Participant shall keep the Committee informed of his current address. The Committee shall not be obligated to search for the whereabouts of any person. If the location of a Participant is not made known to the Committee within three years after the date on which any payment of the Participant's benefit hereunder may be made, payment may be made as though the Participant had died at the end of the three-year period. If, within one additional year after such three-year period has elapsed, or, within three years after the actual death of a Participant, whichever occurs first, the Committee is unable to locate the spouse or any beneficiary of the Participant, the Participant and his surviving spouse or beneficiary shall forfeit all rights to any Supplemental Pension Plan Benefits.

8.9 Elections, Applications, Notices. Every direction, revocation or notice authorized or required hereunder shall be deemed delivered to the Employers or the Committee as the case may be: (a) on the date it is personally delivered to the Secretary of the Committee (with a copy to the Company's General Counsel) at the Company's executive offices at Buffalo, New York or (b) three business days after it is sent by registered or certified mail, postage prepaid, addressed to the Secretary of the Committee (with a copy to the Company's General Counsel) at the offices indicated above, and shall be deemed delivered to a Participant, surviving spouse or beneficiary: (a) on the date it is personally delivered to such individual, or (b) three business days after it is sent by registered or certified mail, postage prepaid, addressed to such individual at the last address shown for him on the records of the Employers. Any notice required hereunder may be waived by the person entitled thereto.

8.10 Severability. In the event any provision of this Supplemental Pension Plan shall be held illegal or invalid for any reason, such illegality or invalidity shall not affect the remaining provisions of this Supplemental Pension Plan. This Supplemental Pension Plan shall be construed and enforced as if such illegal or invalid provision had never been contained herein.

8.11 Headings. The headings of Sections of this Supplemental Pension Plan are for convenience of reference only and shall have no substantive effect on the provisions of this Supplemental Pension Plan.

Exhibit 10.13

# FIRST EMPIRE STATE CORPORATION
# SUPPLEMENTAL RETIREMENT SAVINGS PLAN

## ARTICLE I
## PURPOSE

1.1 The purpose of this First Empire State Corporation Supplemental Retirement Savings Plan (the "Supplemental Retirement Savings Plan") is to provide for the payment of supplemental benefits to select management and highly compensated employees of certain affiliates of First Empire State Corporation (the "Employers"), contributions on whose behalf under the First Empire State Corporation Retirement Savings Plan and Trust (the "RSP") are subject to certain limitations imposed by Section 401(a)(17) of the Internal Revenue Code, as amended (the "Code"). The Employers intend and desire that this Supplemental Retirement Savings Plan, together with the other elements of the Employers' compensation programs, will attract, retain and motivate eligible employees.

ARTICLE II
DEFINITIONS

All terms with initial capital letters which are used in the RSP shall have the meanings assigned to them under the provisions of the RSP unless otherwise specified herein or as otherwise qualified by the context in which the term is used herein.

2.1 For the purposes of this Supplemental Retirement Savings Plan, the following words and phrases shall have the meanings indicated unless a different meaning is clearly required by the context. Any terms used herein in the masculine shall be read and construed in the feminine where they would so apply, and any terms used in the singular shall be read and construed in the plural if appropriate.

(a) "Committee" shall mean the Committee charged with the administration of this Supplemental Retirement Savings Plan under Article VII.

(b) "Company" shall mean Manufacturers and Traders Trust Company or any successor by merger, purchase or otherwise.

(c) "Compensation" shall mean the amount so defined in the RSP, calculated without regard to the limitation contained in Code Section 401(a)(17).

(d) "Compensation Limitation" shall mean, for any given year beginning on and after January 1, 1994, $150,000, as adjusted to and including such given year of determination in the manner provided under Code Section 401(a)(17).

(e) "Employee" shall mean any common law employee of an Employer.

(f) "Employer" shall mean any affiliate of First Empire State Corporation that participates in the RSP.

(g) "Participant" shall mean an Employee who has become a Participant in accordance with Section 3.2. Participant shall also include a former Employee who had met the foregoing criteria as an Employee and who, at the time of determination, has an Account under this Supplemental Retirement Savings Plan.

(h) "Supplemental Retirement Savings Plan" shall mean this First Empire State Corporation Supplemental Retirement Savings Plan, as the same may be amended from time to time.

(i) "Supplemental Retirement Savings Plan Account" or "Account" shall mean, to the extent applicable to any given Participant, the account maintained under the provisions of Section 4.1.

## ARTICLE III
## ELIGIBILITY AND PARTICIPATION

3.1 Any Employee who is a member of a select group of management or highly compensated employees as designated by the Committee is eligible to participate in this Supplemental Retirement Savings Plan, provided, however, that any such Employee shall become a Participant hereunder only as provided under Section 3.2.

3.2 An Employee eligible to participate in this Supplemental Retirement Savings Plan under Section 3.1 shall become a Participant in this Supplemental Retirement Savings Plan at such time as the Committee first determines that contributions on his behalf under the RSP will be affected by the Compensation Limitation. The determination of whether and at which time an Employee is affected by the Compensation Limitation and eligible for participation herein shall be made by the Committee. Notwithstanding the foregoing, a Participant may become eligible to have amounts credited to his Supplemental Retirement Savings Plan Account for a year only in the event that:

(a) such individual has elected to make Salary Reduction Contributions under the RSP for the year equal to at least six percent (6%) of his Compensation not in excess of the Compensation Limitation; and

(b) his Compensation for the year is in excess of the Compensation Limitation.

3.3 Upon becoming a Participant under this Supplemental Retirement Savings Plan, he shall make an irrevocable election to receive his benefit under this Supplemental Retirement Savings Plan either in the form of a lump sum or in annual installments payable over 5, 10 or 15 years, and to begin to receive such benefit either:

(a) at a specific age, or

(b) at retirement under the First Empire State Corporation Retirement Plan, but not later than age 65 if the Participant terminates employment prior to eligibility for retirement under such plan.

# ARTICLE IV
# CALCULATION OF CREDITS TO SUPPLEMENTAL RETIREMENT SAVINGS PLAN ACCOUNTS

4.1 There shall be credited to the Supplemental Retirement Savings Plan Account of a Participant eligible therefor under Section 3.2 the excess of (a) the amount which would have been contributed under Section 5.02 of the RSP on behalf of such Participant if the provisions of the RSP were administered without regard to the annual limitation on Compensation set forth in Code Section 401(a)(17), but with Compensation capped at $235,840, over (b) the amount actually contributed under Section 5.02 of the RSP on his behalf.

The credit to the Supplemental Retirement Savings Plan Account under this Section 4.1 on behalf of a Participant shall be computed in accordance with the foregoing and with the objective that the Participant should have credited to his accounts under this Supplemental Retirement Savings Plan and the RSP the total amount that would otherwise have been contributed on his behalf under Section 5.02 of the RSP as of the date of such credit, had the provisions of Code Section 401(a)(17) not been applicable thereto, but with Compensation capped at the amount set forth above.

4.2 In addition to any amount credited to his Account under Section 4.1, a Participant may elect to defer under this Plan a percentage of that portion of his Compensation in excess of the Compensation Limitation, but not in excess of $235,840, equal to the percentage of his Compensation that he has elected to defer for the year under Section 5.01 of the RSP. Such election for a year must be made prior to the beginning of that year (except that the election for 1994 must be made prior to August 1, 1994, and the election for an individual who first becomes a Participant after the first day of a year must be made at the time he becomes a Participant) and shall be irrevocable.

4.3 Notwithstanding any provisions of this Supplemental Retirement Savings Plan to the contrary, the credits to the Supplemental Retirement Savings Plan Accounts provided under Article IV shall be determined and coordinated by the Committee so as to prevent any duplication of Supplemental Retirement Savings Plan and RSP benefits.

# ARTICLE V
## INDIVIDUAL ACCOUNTS, INVESTMENTS AND VALUATIONS

5.1 The provisions of the RSP concerning the creation and maintenance of individual accounts and concerning investment elections by Participants shall apply equally under this Supplemental Retirement Savings Plan.

5.2 Participant investment elections under the RSP for Salary Reduction Contributions shall apply with respect to amounts credited to Accounts under Article IV, and such amounts shall be treated as invested initially in the Investment Funds available under the RSP in the same proportion as reflected in such elections under the RSP. Accounts will be valued at the same time as RSP accounts, except that stock of First Empire State Corporation will be stated in dollars instead of shares.

5.3 The deemed investment of amounts credited to a Participant's Account may be reallocated, at the Participant's election, among the available RSP Investment Funds on a quarterly basis. Such elections shall be independent of any reallocation election made under the RSP.

5.4 Accounts will be credited with the investment return reported by the Trust and Investment Services Division for the Investment Funds under the RSP in which the Accounts are treated as invested.

# ARTICLE VI
## COMMENCEMENT AND FORM OF SUPPLEMENTAL RETIREMENT SAVINGS PLAN BENEFIT

6.1 Benefits hereunder shall become payable to a Participant as of the date and in the form he has specified under the provisions of Section 3.3. Participant elections may not be changed, except that, upon consideration of all facts in hardship situations, the Committee may approve the acceleration of payments to a Participant.

6.2 At the Committee's discretion, any benefits hereunder payable to a Participant or beneficiary (who shall be the Participant's beneficiary under the RSP) may be paid in a form of a lump sum payment as determined by the Committee.

6.3 In the event that a Participant is still employed by an Employer in the year he has elected to have payment of his benefits hereunder made or commence, payment of the amount in his Account as of the beginning of that year shall be made or commence (depending on his election under Section 3.3) in that year, and payment of amounts credited to his Account in that year and in subsequent years shall be made or commence (depending on his election under Section 3.3) in the January of the year following the year in which such amounts were credited to his Account.

6.4 Benefits payable hereunder to, or on behalf of, a Participant shall be paid by the Employer who last employed the Participant.

# ARTICLE VII
# ADMINISTRATION

7.1 The Committee shall be charged with the administration of this Supplemental Retirement Savings Plan. The members of the Committee shall be selected by the Company. The Committee shall have all such powers as may be necessary to discharge its duties relative to the administration of this Supplemental Retirement Savings Plan, including by way of illustration and not limitation, discretionary authority to interpret and construe this Supplemental Retirement Savings Plan, to decide any dispute arising hereunder, to determine the right of any Employee with respect to participation herein, to determine the right of any Participant with respect to benefits payable under this Supplemental Retirement Savings Plan and to adopt, alter and repeal such administrative rules, regulations and practices governing the operation of this Supplemental Retirement Savings Plan as it, in its sole discretion, may from time to time deem advisable. No member of the Committee shall be liable to any person for any action taken or omitted in connection with the interpretation and administration of this Supplemental Retirement Savings Plan unless attributable to willful misconduct or lack of good faith. The Committee shall be entitled to rely conclusively upon all tables, valuations, certificates, opinions and reports furnished by any actuary, accountant, controller, counsel or other person employed or engaged by the Committee or the Company with respect to this Supplemental Retirement Savings Plan. Members of the Committee shall not participate in any action or determination regarding solely their own benefits payable hereunder. Except as provided in Section 7.3, decisions of the Committee made in good faith shall be final, conclusive and binding upon all parties.

7.2 Whenever the Committee denies, in whole or in part, a claim for benefits filed by any person (hereinafter referred to as a "Claimant"), the Committee shall transmit a written notice setting forth, in a manner calculated to be understood by the Claimant, a statement of the specific reasons for the denial of the claim, references to the specific provisions of this Supplemental Retirement Savings Plan on which the denial is based, a description of any additional needed material or information and why such material or information is necessary, and an explanation of the claims review procedure as set forth herein. In addition, the written notice shall contain the date on which the notice was sent and a statement advising the Claimant that, within 90 days of the date on which such notice is received, he may obtain review of the Committee's decision.

7.3 Within 90 days of the date on which the notice of denial of claim is received by the Claimant, the Claimant or his authorized representative may request that the claim denial be reviewed by filing with the Committee a written request therefor, which request shall contain the following information:

(a) the date on which the notice of denial of claim was received by the Claimant;

(b) the date on which the Claimant's request was filed with the Committee; provided, however, that the date on which the Claimant's request for review was in fact filed with the Committee shall control in the event that the date of the actual filing is later than the date stated by the Claimant pursuant to this clause (b);

(c) the specific portions of the denial of his claim which the Claimant requests the Committee to review;

(d) a statement by the Claimant setting forth the basis upon which he believes the Committee should reverse its previous denial of his claim for benefits and accept his claim as made; and

(e) any written material (included as exhibits) which the Claimant desires the Committee to examine in its consideration of his position as stated pursuant to clause (d).

Within 60 days of the date determined pursuant to clause (b) (or, if special circumstances require an extension of time, within 120 days of such date), the Committee shall conduct a full and fair review of the decision denying the Claimant's claim for benefits and shall deliver, to the Claimant in writing, its decision. Such written decision shall set forth, in a manner calculated to be understood by the Claimant, a statement of the specific reasons for its decision, including references to the specific provisions of this Supplemental Retirement Savings Plan which were relied upon. The decision will be final and binding on all persons concerned.

## ARTICLE VIII
## AMENDMENT AND TERMINATION

8.1 The Employers expect to continue this Supplemental Retirement Savings Plan indefinitely, but reserve and delegate to the Company the right to amend or terminate this Supplemental Retirement Savings Plan at any time, if, in the Company's sole judgment, such amendment or termination is necessary or desirable. Any such amendment or termination shall be made in writing by the Board of Directors of the Company or its designee, if applicable, and shall be effective as of the date specified in such document. No amendment or termination of this Supplemental Retirement Savings Plan shall directly or indirectly deprive any Participant, surviving spouse or beneficiary of all or any portion of the Supplemental Retirement Savings Plan benefits earned by the Participant as of the date of amendment or termination. In the event of a termination of this Supplemental Retirement Savings Plan, the Company (or any transferee, purchaser or successor entity) may elect, in its discretion, either to have the Employers make lump sum payments, at the time of such termination, of the Account balances on such date to Participants, surviving spouses and beneficiaries or to have the Employers make payments to such individuals at such time or times as provided under the terms of this Supplemental Retirement Savings Plan.

8.2 This Supplemental Retirement Savings Plan shall not be automatically terminated by a transfer or sale of an Employer or by the merger or consolidation of an Employer into or with any other corporation or other entity, but it shall be continued with respect to such Employer or its successor after such sale, merger or consolidation only if and to the extent that the transferee, purchaser or successor entity agrees to continue this Supplemental Retirement Savings Plan. In the event this Supplemental Retirement Savings Plan is not continued with respect to such Employer or its successor by the transferee, purchaser or successor entity, then it shall terminate with respect to such Employer or its successor subject to the provisions of Section 8.1.

ARTICLE IX
MISCELLANEOUS

9.1 No Effect on Employment Rights. Nothing contained herein will confer upon any Participant the right to be retained in the service of an Employer nor limit the right of an Employer to discharge or otherwise deal with Participants without regard to the existence of this Supplemental Retirement Savings Plan.

9.2 Plan Unfunded. Notwithstanding any provision herein to the contrary, the benefits offered hereunder shall constitute nothing more than unfunded, unsecured promises by each Employer to pay the benefits determined hereunder that such Employer is obligated to pay under Section 6.4. No provision shall at any time be made with respect to segregating any assets of any Employer for payment of any benefits hereunder. No Participant, beneficiary or any other person shall have any interest in any particular assets of the Employers by reason of the right to receive a benefit under this Supplemental Retirement Savings Plan, and any such Participant, beneficiary or other person shall have only the rights of a general unsecured creditor of the Employer by whom the Participant was last employed with respect to any rights under this Supplemental Retirement Savings Plan. Nothing contained in this Supplemental Retirement Savings Plan shall constitute a guaranty by the Employers or any other entity or person that the assets of any Employer will be sufficient to pay any benefit hereunder. All expenses and fees incurred in the administration of this Supplemental Retirement Savings Plan shall be paid by the Employers.

9.3 Binding on Employers, Employees and Their Successors. This Supplemental Retirement Savings Plan shall be binding upon and inure to the benefit of the Employers, their successors and assigns and each Participant and his heirs, executors, administrators and legal representatives. In the event of the merger or consolidation of an Employer with or into any other corporation, or in the event substantially all of the assets of an Employer shall be transferred to another corporation, the successor corporation resulting from the merger or consolidation, or the transferee of such assets, as the case may be, shall, as a condition to the consummation of the merger, consolidation or sale, assume the accrued obligations of such Employer hereunder with respect to benefits accrued as of the date of such merger, consolidation or transfer and shall be substituted for such Employer hereunder.

9.4 Spendthrift Provisions. No benefit payable under this Supplemental Retirement Savings Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge prior to actual receipt thereof by the payee; and any attempt so to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge prior to such receipt shall be void; and the Employers shall not be liable in any manner for or subject to the debts, contracts, liabilities, torts or engagements of any person entitled to any benefit under this Supplemental Retirement Savings Plan.

9.5 Disclosure. Each Participant shall receive a copy of this Supplemental Retirement Savings Plan, and the Committee will make available for inspection by any Participant a copy of the rules and regulations used by the Committee in administering this Plan.

9.6 State Law. This Supplemental Retirement Savings Plan is established under and will be construed according to the laws of the State of New York to the extent that such laws are not preempted by the Employee Retirement Income Security Act of 1974, as amended, and regulations promulgated thereunder.

9.7 Incapacity of Recipient. In the event a Participant, surviving spouse or beneficiary is declared incompetent and a guardian, conservator or other person legally charged with the care of his person or of his estate is appointed, any benefits under this Supplemental Retirement Savings Plan to which such Participant, spouse or beneficiary is entitled shall be paid to such guardian, conservator or other person legally charged with the care of his person or his estate. Except as provided herein, when the Committee, in its sole discretion, determines that a Participant, surviving spouse or beneficiary is unable to manage his financial affairs, the Committee may direct the Employer responsible for payment to make distributions to any person for the benefit of such Participant, spouse or beneficiary.

9.8 Unclaimed Benefit. Each Participant shall keep the Committee informed of his current address. The Committee shall not be obligated to search for the whereabouts of any person. If the location of a Participant is not made known to the Committee within three years after the date on which any payment of the Participant's benefit hereunder may be made, payment may be made as though the Participant had died at the end of the three-year period. If, within one additional year after such three-year period has elapsed, or, within three years after the actual death of a Participant, whichever occurs first, the Committee is unable to locate the spouse or any beneficiary of the Participant, the Participant and his surviving spouse or beneficiary shall forfeit all rights to any Supplemental Retirement Savings Plan benefits.

9.9 Elections, Applications, Notices. Every direction, revocation or notice authorized or required hereunder shall be deemed delivered to the Employers or the Committee as the case may be: (a) on the date it is personally delivered to the Secretary of the Committee (with a copy to the Company's General Counsel) at the Company's executive offices at Buffalo, New York or (b) three business days after it is sent by registered or certified mail, postage prepaid, addressed to the Secretary of the Committee (with a copy to the Company's General Counsel) at the offices indicated above, and shall be deemed delivered to a Participant, surviving spouse or beneficiary: (a) on the date it is personally delivered to such individual, or (b) three business days after it is sent by registered or certified mail, postage prepaid, addressed to such individual at the last address shown for him on the records of the Employers. Any notice required hereunder may be waived by the person entitled thereto.

9.10 Severability. In the event any provision of this Supplemental Retirement Savings Plan shall be held illegal or invalid for any reason, such illegality or invalidity shall not affect the remaining provisions of this Supplemental Retirement Savings Plan. This Supplemental Retirement Savings Plan shall be construed and enforced as if such illegal or invalid provision had never been contained herein.

9.11 Headings. The headings of Sections of this Supplemental Retirement Savings Plan are for convenience of reference only and shall have no substantive effect on the provisions of this Supplemental Retirement Savings Plan.

Exhibit 11

FIRST EMPIRE STATE CORPORATION AND SUBSIDIARIES

COMPUTATION OF EARNINGS PER COMMON SHARE

| Amounts in thousands, except per share | 1994 | 1993 | 1992 |
|---|---|---|---|
| | Year ended December 31 | | |
| Primary | | | |
| Average common shares outstanding | 6,729 | 6,869 | 6,735 |
| Common stock equivalents * | 223 | 222 | 298 |
| Primary common shares outstanding | 6,952 | 7,091 | 7,033 |
| Net income | $ 117,295 | 101,992 | 97,937 |
| Less: Preferred stock dividends | 3,600 | 3,600 | 3,600 |
| Net income available to common shareholders | 113,695 | 98,392 | 94,337 |
| Earnings per common share - primary | $ 16.35 | 13.87 | 13.41 |
| Fully diluted | | | |
| Average common shares outstanding | 6,729 | 6,869 | 6,735 |
| Common stock equivalents * | 228 | 225 | 302 |
| Assumed conversion of convertible preferred stock | 507 | 507 | 507 |
| Fully diluted average common shares outstanding | 7,464 | 7,601 | 7,544 |
| Net income | $ 117,295 | 101,992 | 97,937 |
| Earnings per common share - fully diluted | $ 15.71 | 13.42 | 12.98 |

* Represents shares issuable upon the assumed exercise of outstanding common stock options under the "treasury stock" method of accounting.

Exhibit 23.1

CONSENT OF INDEPENDENT ACCOUNTANTS

We hereby consent to the incorporation by reference in the Registration Statement on Form S-8 (No. 33-32044) of First Empire State Corporation of our report dated January 10, 1995 appearing on page 52 of this Annual Report on Form 10-K. We also consent to the incorporation by reference of our report dated March 8, 1995 appearing on page 3 of the First Empire State Corporation Retirement Savings Plan and Trust Financial Statements and Additional Information for the years ended December 31, 1994 and 1993 filed herewith as Exhibit 99.1 of this Annual Report on Form 10-K. We consent to the reference to us under the heading "Experts" in such Registration Statement.

/s/ PRICE WATERHOUSE LLP

Buffalo, New York
March 16, 1995

Exhibit 23.2

# CONSENT OF INDEPENDENT ACCOUNTANTS

We hereby consent to the incorporation by reference in the Registration Statements on Form S-8 (Nos. 33-12207 and 33-58500) of First Empire State Corporation of our report dated January 10, 1995 appearing on page 52 of this Annual Report on Form 10-K. We also consent to the reference to us under the heading "Experts" in such Registration Statements.

/s/ PRICE WATERHOUSE LLP

Buffalo, New York
March 16, 1995

9
1,000

Dec-31-1994
Jan-01-1994
Dec-31-1994
12-MOS
377,781
143
3,080
5,438
1,514,395
276,645
270,159
8,447,117
243,332
10,528,644
8,243,073
1,364,850
103,538
95,701
40,487
0
40,000
640,509
10,528,644
633,077
106,945
7,324
747,346
199,051
279,206
468,140
60,536
128
336,862
194,481
117,295
0
0
117,295
16.35
15.71
4.89
62,787
11,754
2,994
0
195,878
32,443
15,823
243,332
133,909
0
109,423

Exhibit 99.1

FIRST EMPIRE STATE CORPORATION
RETIREMENT SAVINGS PLAN AND TRUST

Financial Statements and Additional Information
December 31, 1994 and 1993

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# REPORT OF INDEPENDENT ACCOUNTANTS

To the Participants and Administrative Committee of
the First Empire State Corporation
Retirement Savings Plan and Trust

We have audited the accompanying statement of net assets available for plan benefits of the First Empire State Corporation Retirement Savings Plan and Trust (the Plan) as of December 31, 1994 and 1993 and the related statement of changes in net assets available for plan benefits for the years then ended. These financial statements are the responsibility of the Plan's Administrative Committee. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards. 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 financial statements audited by us present fairly, in all material respects, the net assets available for plan benefits of the First Empire State Corporation Retirement Savings Plan and Trust at December 31, 1994 and 1993, and the changes in its net assets available for plan benefits for the years then ended in conformity with generally accepted accounting principles.

As discussed in Note 2 to the financial statements, the Plan changed its method of accounting for benefit payments in 1993.

Our audit was made for the purpose of forming an opinion on the basic financial statements taken as a whole. The additional information included in Schedules I and II is presented for purposes of additional analysis and is not a required part of the basic financial statements but is additional information required by ERISA. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

/s/ PRICE WATERHOUSE LLP

Buffalo, New York
March 8, 1995

STATEMENT OF NET ASSETS AVAILABLE FOR PLAN BENEFITS

| | December 31 | |
|---|---|---|
| Assets | 1994 | 1993 |
| Cash | $ 7,745 | 20,681 |
| Investments, at current value: | | |
| Short-term investments (cost: $10,272,904 and $9,369,804) | 10,272,904 | 9,369,804 |
| Common stock (cost: $27,071,735 and $20,093,839) | 34,666,101 | 29,143,251 |
| U.S. government and agency obligations (cost: $2,728,247 and $2,664,196) | 2,676,365 | 2,790,214 |
| Corporate bonds (cost: $1,421,332 and $1,083,088) | 1,272,057 | 1,104,164 |
| Loans to participants | 1,827,121 | 1,515,189 |
| Total investments | 50,714,548 | 43,922,622 |
| Receivables: | | |
| Employee contributions | 115,283 | 98,745 |
| Employer contributions | 74,746 | 64,173 |
| Interest and dividends | 73,587 | 60,805 |
| Total receivables | 263,616 | 223,723 |
| Total assets | 50,985,909 | 44,167,026 |
| Liabilities | | |
| Due to broker | 402,427 | 212,814 |
| Net assets available for plan benefits | $50,583,482 | 43,954,212 |

See accompanying notes to financial statements.

STATEMENT OF CHANGES IN NET ASSETS AVAILABLE FOR PLAN BENEFITS

| | Year ended December 31 | |
|---|---|---|
| | 1994 | 1993 |
| Additions to net assets available for plan benefits | | |
| Net investment income (loss): | | |
| Interest | $ 757,426 | 563,168 |
| Dividends | 594,285 | 383,469 |
| Net realized gain (loss) on sale of investments | (172,473) | 71,023 |
| Net appreciation (depreciation) in current value of investments | (1,378,257) | 1,277,410 |
| Total net investment income (loss) | (199,019) | 2,295,070 |
| Contributions: | | |
| Employee | 5,867,384 | 6,445,933 |
| Employer | 3,503,858 | 3,133,797 |
| Total contributions | 9,371,242 | 9,579,730 |
| | 9,172,223 | 11,874,800 |
| Deductions from net assets available for plan benefits | | |
| Benefit payments to participants | (2,542,953) | (2,072,905) |
| Net increase in net assets available for plan benefits before cumulative effect of change in method of accounting for benefit payments to participants | 6,629,270 | 9,801,895 |
| Cumulative effect on prior year of change in method of accounting for benefit payments to participants (note 2) | - | 527,103 |
| Net increase in net assets available for plan benefits | 6,629,270 | 10,328,998 |
| Net assets available for plan benefits at beginning of year | 43,954,212 | 33,625,214 |
| Net assets available for plan benefits at end of year | $50,583,482 | 43,954,212 |

See accompanying notes to financial statements.

NOTES TO FINANCIAL STATEMENTS

1. Description of plan

General

The following description of the First Empire State Corporation Retirement Savings Plan and Trust ("the Plan") is provided for general information purposes and is qualified in its entirety by reference to the Plan. The Plan is subject to the provisions of the Employee Retirement Income Security Act of 1974 ("ERISA").

Eligibility and participation

The Plan is a defined contribution plan and exists for the benefit of permanent employees of First Empire State Corporation and its subsidiaries ("the Company"). Persons who are at least 21 years of age and have completed 12 months of continuous service are eligible to participate in the Plan. Eligible employees may elect to participate effective the first day of any January, April, July or October subsequent to meeting the eligibility criteria.

Administration

The Plan is administered by a committee ("Administrative Committee") which is appointed by the Board of Directors of Manufacturers and Traders Trust Company ("M&T Bank"), a wholly-owned subsidiary of First Empire State Corporation ("First Empire"). The assets of the Plan are held by M&T Bank, as Trustee. The Wyatt Company, an actuarial and consulting firm, provides recordkeeping services on an individual participant basis to the Plan.

The Board of Directors of M&T Bank has the right to terminate, amend or modify the Plan at any time subject to the Plan provisions. Upon Plan termination, participants will receive the assets allocated to their accounts.

Contributions

Contributions to the Plan are made by the participants through salary reduction and by the Company through employer matching contributions. The participants may elect to reduce their compensation by a specified whole percentage not to exceed 8%, subject to certain limitations under Section 401(k) and Section 415 of the Internal Revenue Code. The Company remits to the Plan on behalf of each participant the amount by which the participant's compensation is reduced. In addition, the Company makes an employer matching contribution in an amount equal to 75% of the participant's contribution limited to 4.5% of the participant's compensation. Compensation is generally defined in the Plan to mean a participant's base salary for the calendar year excluding any form of additional compensation. Generally, total annual employee contributions may not exceed the lesser of 25% of compensation, as defined in the Internal Revenue Code, or $30,000, adjusted for inflation. An individual participant's pre-tax contribution was limited to $9,240 in 1994 and $8,994 in 1993. Contributions above this limit were treated as post-tax contributions.

Participants' accounts, including all salary reduction contributions, employer matching contributions and increments thereon are at all times fully vested and nonforfeitable.

Investment programs

Participants may invest their salary reduction contributions in the common stock of First Empire State Corporation ("First Empire stock fund"), equity securities other than those of First Empire ("diversified equity fund"), short-term fixed income securities other than those of First Empire ("money-market fund") or long-term fixed income securities other than those of First Empire ("bond fund") in increments of 25%. A separate account is maintained for each participant's interest in each fund. There were 2,647 participants in the First Empire stock fund, 2,095 in the diversified equity fund, 1,433 in the money-market fund and 1,264 in the bond fund at December 31, 1994. A total of 3,015 employees of the Company were active participants in the Plan at December 31, 1994. The allocation of net assets available for Plan benefits to investment programs and allocation of changes in net assets available for Plan benefits to investment programs are set forth in Exhibit I and II, respectively.

On January 1, April 1, July 1 and October 1 of each year, participants may, in accordance with the rules of the Plan, transfer existing balances among the available investment funds, reduce or increase the percentage of salary reduction elected and/or redirect their current salary reduction contributions into different funds. Contributions may be suspended at any time.

Employer matching contributions

Employer matching contributions are invested in the above funds in the same proportion as elected by the participants.

Loans to participants

Upon written application to the Administrative Committee, participants may borrow from their account an amount not to exceed the lesser of (1) 50% of the participant's vested account balance as of the most recent valuation date or (2) $50,000 reduced by the participant's highest outstanding loan balance in the twelve months prior to the date of loan origination. The minimum loan amount is $1,000. Loans bear interest at one percentage point above prime as designated by M&T Bank and are repaid in equal installments through after-tax payroll deductions for a period of up to five years.

Withdrawals and distributions

A participant undergoing financial hardship may make withdrawals from the Plan while employed by the Company, subject to Plan limitations. Upon termination of employment for any reason, participants are entitled to a distribution of the full amount of individual account balances as of the revaluation date immediately following such termination of service.

Unless the participant elects otherwise, distribution of the full amount of the participant's account balance will be made no later than 60 days after the close of the calendar year in which the last of the following occurs: (a) the participant attains age 65; (b) the tenth anniversary of the year in which participation began; or (c) the participant terminates service with the Company. The participant may elect to defer distribution until no later than April 1 of the calendar year following the year in which age 70-1/2 is attained.

## 2. Summary of significant accounting policies

### Basis of accounting

The accounts of the Plan are maintained on the accrual basis.

### Investments

Investments are reported on a current value basis. Investments of the First Empire stock fund, diversified equity fund, money-market fund and bond fund are traded on national securities exchanges and are valued using the last reported sales price prior to the close of the Plan year. Investments representing 5% or more of net assets available for plan benefits at December 31, 1994 and 1993 consisted of the common stock of First Empire State Corporation and the Vision Group of Funds, Inc. Money Market Fund. Loans to participants are valued by the Administrative Committee as no active market exists for such loans. The loans, which are fully secured by a portion of the participant's vested benefits, were determined to have a current value which approximates the outstanding principal balance of the loans at both December 31, 1994 and 1993.

Investment income of the First Empire stock fund, diversified equity fund, money-market fund and bond fund is allocated to participants based on their proportionate share of the respective investment fund's net assets. Interest income on loans to participants is allocated to the participants based on their respective loan agreement.

### Benefit payments to participants

Benefit payments to participants are recorded when paid.

During 1993, the Plan changed its method of accounting for benefit payments to participants by no longer accruing for benefit payments payable to participants at the end of the period. This change was made to comply with reporting standards established by the American Institute of Certified Public Accountants as set forth in its Audit and Accounting Guide, "Audits of Employee Benefit Plans", revised as of May 1, 1993. The cumulative effect of such change was to increase the net increase in net assets available for plan benefits for the year ended December 31, 1993 by $527,103.

Net assets available for plan benefits and benefit payments to participants reported on Internal Revenue Service Form 5500 differ from the amounts included in the financial statements by amounts payable to participants who have elected to make withdrawals from the Plan. Such amounts were $680,492 and $603,796 at December 31, 1994 and 1993, respectively.

### Administrative expenses

Expenses related to administration of the Plan are paid by the Company. Brokerage commissions, transfer taxes and similar costs of acquiring or selling securities are paid by the Plan. The Plan paid $18,639 and $15,999 for brokerage commissions in 1994 and 1993, respectively. These amounts have been included in the Statement of Changes in Net Assets Available for Plan Benefits in net realized gain or loss on sale of investments for securities sold and net appreciation or depreciation in fair market value of investments for securities acquired during the year.

## 3. Income taxes

The Internal Revenue Service has issued a favorable determination letter in 1992 regarding the qualified and tax-exempt status of the Plan under Sections 401 and 501 of the Internal Revenue Code. Subsequent to receipt of the favorable determination letter the Plan was amended. The Administrative Committee is of the opinion that these amendments do affect the qualified and tax-exempt status of the Plan. Accordingly, no provision has been made for income taxes.

Participants are not subject to Federal or state income tax on employer matching contributions and pre-tax participant salary reduction contributions until such contributions are withdrawn or distributed. The earnings and appreciation of the assets of the Plan are not subject to Federal or state income taxation until withdrawn or distributed.

## 4. Plan amendments

Effective July 1, 1994, the Plan was amended to allow eligible part-time employees to participate in the Plan. The Plan was also amended, effective retroactive to January 1, 1993, as required by the Internal Revenue Code, to allow participants to make direct rollover of eligible rollover distributions to another qualified plan or individual retirement account.

Effective, January 1, 1995, the Citizens Savings Bank Salary Investment Plan ("Citizens Plan") was merged into the Plan following the acquisition of Citizens Savings Bank, F.S.B. by M&T Bank in December 1994. The estimated fair value of the assets of the Citizens Plan as of January 1, 1995 was $2,765,990. Such assets were physically transferred to the Plan's Trustee in January 1995.

In December 1994, M&T Bank acquired seven banking offices from Chemical Bank. Effective January 1, 1995, the Plan was amended to add special eligibility rules and accept the transfer of participant account balances from the Chemical Savings Incentive Plan for former Chemical Bank employees that became employees of M&T Bank. Assets with an estimated fair value of $609,667 at January 1, 1995 were transferred to the Plan's Trustee during January and February 1995.

The Plan is expected to be amended effective April 1, 1995, to merge the Statewide Funding Corporation Profit Sharing Plan and Trust ("Statewide Plan") into the Plan. Statewide Funding Corporation was acquired by M&T Mortgage Corporation, a wholly-owned subsidiary of M&T Bank, in March 1995.

## 5. Related party transactions

During 1994, the Plan acquired in the open market, in 27 transactions, 28,667 shares of First Empire common stock at a cost of $4,218,308. The Plan disposed of, in 16 transactions, 4,308 shares of First Empire common stock which resulted in proceeds of $636,446 and realized gains of $27,909. In addition, 190,088 shares of First Empire common stock with a total cost of $18,722,361 and a fair market value of $25,851,968 were held at December 31, 1994.

During 1993, the Plan acquired in the open market, in 36 transactions, 36,408 shares of First Empire common stock at a cost of $5,146,869. The Plan disposed of, in 11 transactions, 2,809 shares of First Empire common stock which resulted in proceeds of $394,984 and realized gains of $14,825. In addition, 165,729 shares of First Empire common stock with a total cost of $14,913,922 and a fair market value of $23,326,357 were held at December 31, 1993.

6. Employer and employee contributions

Employer and employee contributions are summarized as follows:

| | Employee contributions | Employer contributions |
|---|---|---|
| For the year ended December 31, 1994: | | |
| M&T Bank | $5,275,570 | 3,125,188 |
| The East New York Savings Bank | 474,250 | 309,520 |
| M&T Mortgage Corporation | 117,564 | 69,150 |
| | $5,867,384 | 3,503,858 |
| For the year ended December 31, 1993: | | |
| M&T Bank | $5,798,161 | 2,820,953 |
| The East New York Savings Bank | 558,760 | 280,981 |
| M&T Mortgage Corporation | 89,012 | 31,863 |
| | $6,445,933 | 3,133,797 |

The East New York Savings Bank is a wholly-owned subsidiary of First Empire.

7. Net realized gain (loss) on sale of investments

Net realized gain (loss) on sale of investments is comprised of the following:

| | Total proceeds | Basis of assets sold | Net realized gain (loss) |
|---|---|---|---|
| For the year ended December 31, 1994: | | | |
| First Empire common stock | $ 636,446 | 608,537 | $ 27,909 |
| Other common stock | 841,304 | 971,810 | (130,506) |
| U.S. government and agency obligations | 2,950,220 | 3,014,217 | (63,997) |
| Corporate bonds | 586,968 | 592,847 | (5,879) |
| | $5,014,938 | 5,187,411 | $(172,473) |
| For the year ended December 31, 1993: | | | |
| First Empire common stock | $ 394,984 | 380,159 | $ 14,825 |
| Other common stock | 982,585 | 944,198 | 38,387 |
| U.S. government and agency obligations | 1,214,840 | 1,198,029 | 16,811 |
| Corporate bonds | 258,198 | 257,198 | 1,000 |
| | $2,850,607 | 2,779,584 | $ 71,023 |

In accordance with the requirements of ERISA, the basis of assets sold is equal to either the fair market value at the beginning of the period, for securities held as of that date, or cost, for securities acquired during the year.

8. Net appreciation in current value of investments

Net appreciation in current value of investments is comprised of the following:

| | Current value at end of period | Basis of assets held at end of period | Net appreciation |
|---|---|---|---|
| For the year ended | | | |
| December 31, 1994: | | | |
| First Empire common stock | $25,851,968 | 26,936,127 | $(1,084,159) |
| Other common stock | 8,814,133 | 8,800,943 | 13,190 |
| U.S. government and agency obligations | 2,676,365 | 2,821,767 | (145,402) |
| Corporate bonds | 1,272,057 | 1,433,943 | (161,886) |
| | | | $(1,378,257) |
| For the year ended | | | |
| December 31, 1993: | | | |
| First Empire common stock | $23,326,357 | 22,538,195 | $ 788,162 |
| Other common stock | 5,816,894 | 5,381,390 | 435,504 |
| U.S. government and agency obligations | 2,790,214 | 2,755,523 | 34,691 |
| Corporate bonds | 1,104,164 | 1,085,111 | 19,053 |
| | | | $1,277,410 |

In accordance with the requirements of ERISA, the basis of assets held at end of period is equal to either the fair market value at the beginning of the period, for securities held as of that date, or cost, for securities acquired during the year.

EXHIBIT I
ALLOCATION OF NET ASSETS AVAILABLE FOR PLAN BENEFITS TO INVESTMENT PROGRAMS
DECEMBER 31, 1994

| | First Empire stock fund | Diversified equity fund | Money-market fund | Bond fund | Participant loan account | Total |
|---|---|---|---|---|---|---|
| Assets | | | | | | |
| Cash | $ 635 | 1,761 | 5,349 | - | - | $ 7,745 |
| Investments, at current value (cost: $19,011,941, $9,618,466, $8,700,528 and $4,163,283): | | | | | | |
| Short-term investments | 289,580 | 1,269,092 | 8,700,528 | 13,704 | - | 10,272,904 |
| Common stock | 25,851,968 | 8,814,133 | - | - | - | 34,666,101 |
| U.S. government and agency obligations | - | - | - | 2,676,365 | - | 2,676,365 |
| Corporate bonds | - | - | - | 1,272,057 | - | 1,272,057 |
| Loans to participants | - | - | - | - | 1,827,121 | 1,827,121 |
| Total investments | 26,141,548 | 10,083,225 | 8,700,528 | 3,962,126 | 1,827,121 | 50,714,548 |
| Receivables: | | | | | | |
| Employee contributions | 54,185 | 33,035 | 16,579 | 11,484 | - | 115,283 |
| Employer contributions | 34,628 | 21,524 | 10,975 | 7,619 | - | 74,746 |
| Interest and dividends | - | 19,939 | - | 53,648 | - | 73,587 |
| Total receivables | 88,813 | 74,498 | 27,554 | 72,751 | - | 263,616 |
| Total assets | 26,230,996 | 10,159,484 | 8,733,431 | 4,034,877 | 1,827,121 | 50,985,909 |
| Liabilities | | | | | | |
| Due to broker | 288,011 | 114,416 | - | - | - | 402,427 |
| Net assets available for plan benefits | $ 25,942,985 | 10,045,068 | 8,733,431 | 4,034,877 | 1,827,121 | $50,583,482 |

EXHIBIT I (CONTINUED)
ALLOCATION OF NET ASSETS AVAILABLE FOR PLAN BENEFITS TO INVESTMENT PROGRAMS
DECEMBER 31, 1993

| | First Empire stock fund | Diversified equity fund | Money-market fund | Bond fund | Participant loan account | Total |
|---|---|---|---|---|---|---|
| Assets | | | | | | |
| Cash | $ 317 | - | 20,271 | 93 | - | $ 20,681 |
| Investments, at current value (cost: $15,189,628, $6,099,121, $8,129,981 and $3,792,197): | | | | | | |
| Short-term investments | 275,706 | 919,204 | 8,129,981 | 44,913 | - | 9,369,804 |
| Common stock | 23,326,357 | 5,816,894 | - | - | - | 29,143,251 |
| U.S. government and agency obligations | - | - | - | 2,790,214 | - | 2,790,214 |
| Corporate bonds | - | - | - | 1,104,164 | - | 1,104,164 |
| Loans to participants | - | - | - | - | 1,515,189 | 1,515,189 |
| Total investments | 23,602,063 | 6,736,098 | 8,129,981 | 3,939,291 | 1,515,189 | 43,922,622 |
| Receivables: | | | | | | |
| Employee contributions | 50,566 | 22,805 | 13,607 | 11,767 | - | 98,745 |
| Employer contributions | 32,414 | 14,913 | 9,029 | 7,817 | - | 64,173 |
| Interest and dividends | - | 8,386 | - | 52,419 | - | 60,805 |
| Total receivables | 82,980 | 46,104 | 22,636 | 72,003 | - | 223,723 |
| Total assets | 23,685,360 | 6,782,202 | 8,172,888 | 4,011,387 | 1,515,189 | 44,167,026 |
| Liabilities | | | | | | |
| Due to broker | 212,814 | - | - | - | - | 212,814 |
| Net assets available for plan benefits | $ 23,472,546 | 6,782,202 | 8,172,888 | 4,011,387 | 1,515,189 | $43,954,212 |

EXHIBIT II
ALLOCATION OF CHANGES IN NET ASSETS AVAILABLE FOR PLAN BENEFITS TO INVESTMENT PROGRAMS
YEAR ENDED DECEMBER 31, 1994

| | First Empire stock fund | Diversified equity fund | Money-market fund | Bond fund | Participant loan account | Total |
|---|---|---|---|---|---|---|
| Additions to net assets available for plan benefits | | | | | | |
| Net investment income (loss): | | | | | | |
| Interest | $ 4,842 | 54,079 | 327,280 | 249,906 | 121,319 | $ 757,426 |
| Dividends | 390,346 | 203,939 | - | - | - | 594,285 |
| Net realized gain (loss) on sale of investments | 27,909 | (130,506) | - | (69,876) | - | (172,473) |
| Net appreciation (depreciation) in current value of investments | (1,084,159) | 13,190 | - | (307,288) | - | (1,378,257) |
| Total net investment income (loss) | (661,062) | 140,702 | 327,280 | (127,258) | 121,319 | (199,019) |
| Contributions: | | | | | | |
| Employee | 2,871,120 | 1,568,523 | 833,610 | 594,131 | - | 5,867,384 |
| Employer | 1,693,096 | 937,858 | 488,403 | 384,501 | - | 3,503,858 |
| Total contributions | 4,564,216 | 2,506,381 | 1,322,013 | 978,632 | - | 9,371,242 |
| | 3,903,154 | 2,647,083 | 1,649,293 | 851,374 | 121,319 | 9,172,223 |
| Deductions from net assets available for plan benefits | | | | | | |
| Benefit payments to participants | (1,227,268) | (439,535) | (659,549) | (216,601) | - | (2,542,953) |
| Interfund transfers | | | | | | |
| Loans, net of repayments | 190,046 | (125,915) | (317,862) | (58,201) | 311,932 | - |
| Reallocation of investments - additions (deductions) | (395,493) | 1,181,233 | (111,339) | (553,082) | (121,319) | - |
| | (205,447) | 1,055,318 | (429,201) | (611,283) | 190,613 | - |
| Net increase in net assets available for plan benefits | $2,470,439 | 3,262,866 | 560,543 | 23,490 | 311,932 | $ 6,629,270 |

EXHIBIT II (CONTINUED)
ALLOCATION OF CHANGES IN NET ASSETS AVAILABLE FOR PLAN BENEFITS
DECEMBER 31, 1993

| | First Empire stock fund | Diversified equity fund | Money-market fund | Bond fund | Participant loan account | Total |
|---|---|---|---|---|---|---|
| Additions to net assets available for plan benefits | | | | | | |
| Net investment income: | | | | | | |
| Interest | $ 4,043 | 25,772 | 235,561 | 197,244 | 100,548 | $ 563,168 |
| Dividends | 291,614 | 91,855 | - | - | - | 383,469 |
| Net realized gain on sale of investments | 14,825 | 38,387 | - | 17,811 | - | 71,023 |
| Net appreciation in current value of investments | 788,162 | 435,504 | - | 53,744 | - | 1,277,410 |
| Total net investment income | 1,098,644 | 591,518 | 235,561 | 268,799 | 100,548 | 2,295,070 |
| Contributions: | | | | | | |
| Employee | 3,125,379 | 1,343,886 | 1,071,032 | 905,636 | - | 6,445,933 |
| Employer | 1,670,919 | 555,572 | 537,205 | 370,101 | - | 3,133,797 |
| Total contributions | 4,796,298 | 1,899,458 | 1,608,237 | 1,275,737 | - | 9,579,730 |
| | 5,894,942 | 2,490,976 | 1,843,798 | 1,544,536 | 100,548 | 11,874,800 |
| Deductions from net assets available for plan benefits | | | | | | |
| Benefit payments to participants | (916,554) | (203,030) | (691,947) | (261,374) | - | (2,072,905) |
| Interfund transfers | | | | | | |
| Loans, net of repayments | 140,738 | (92,389) | (291,299) | (90,185) | 333,135 | - |
| Reallocation of investments - additions (deductions) | 517,927 | 383,531 | (1,465,142) | 664,232 | (100,548) | - |
| | 658,665 | 291,142 | (1,756,441) | 574,047 | 232,587 | - |
| Net increase (decrease) in net assets available for plan benefits before cumulative effect of change in method of accounting for benefit payments to participants | 5,637,053 | 2,579,088 | (604,590) | 1,857,209 | 333,135 | 9,801,895 |
| Cumulative effect on prior year of change in method of accounting for benefit payments to participants (note 2) | 109,764 | 49,345 | 303,465 | 64,529 | - | 527,103 |
| Net increase (decrease) in net assets available for plan benefits | $5,746,817 | 2,628,433 | (301,125) | 1,921,738 | 333,135 | $10,328,998 |

SCHEDULE I
SCHEDULE OF ASSETS HELD FOR INVESTMENT
DECEMBER 31, 1994

| Name and title of issue | Number of shares or principal amount | Unit cost | Total cost | Current value Per unit | Current value Total |
|---|---|---|---|---|---|
| Short-term investments | | | | | |
| Vision Group of Funds, Inc. Money Market Fund | 10,272,904 | $ 1.000 | $10,272,904 | $ 1.000 | $10,272,904 |
| Total short-term investments | | | $10,272,904 | | $10,272,904 |
| Common stock | | | | | |
| Consumer products and services: | | | | | |
| Alltrista Corporation | 625 | 17.909 | 11,193 | 19.750 | 12,344 |
| Ball Corporation | 7,000 | 28.970 | 202,787 | 31.500 | 220,500 |
| CPC International Inc. | 4,700 | 44.881 | 210,941 | 53.250 | 250,275 |
| Colgate Palmolive Company | 1,000 | 52.195 | 52,195 | 63.375 | 63,375 |
| Dow Jones & Co. | 4,000 | 30.995 | 123,980 | 31.000 | 124,000 |
| Dun & Bradstreet Companies, Inc. | 2,800 | 56.374 | 157,848 | 55.000 | 154,000 |
| First Brands Corporation | 6,200 | 32.714 | 202,828 | 35.000 | 217,000 |
| Harcourt General Inc. | 6,000 | 35.666 | 213,996 | 35.250 | 211,500 |
| Kmart Corporation | 3,200 | 22.896 | 73,268 | 13.000 | 41,600 |
| Limited Inc. | 9,500 | 19.963 | 189,653 | 18.125 | 172,188 |
| McGraw Hill Inc. | 1,000 | 67.370 | 67,370 | 66.875 | 66,875 |
| Quaker State Corp. | 16,500 | 14.734 | 243,116 | 14.000 | 231,000 |
| Reader's Digest Association Inc. | 2,500 | 47.070 | 117,675 | 49.125 | 122,813 |
| Stride Rite Corp. | 3,000 | 25.970 | 77,909 | 11.125 | 33,375 |
| Toys-R-Us, Inc. | 1,300 | 34.320 | 44,616 | 30.625 | 39,813 |
| Total consumer products and services | | . | 1,989,375 | . | 1,960,658 |

| Name and title of issue | Number of shares or principal amount | Unit cost | Total cost | Current value Per unit | Current value Total |
|---|---|---|---|---|---|
| Common stock (continued) | | | | | |
| Energy: | | | | | |
| Burlington Resources Inc. | 1,300 | $ 52.399 | $ 68,119 | $ 35.000 | $ 45,500 |
| Exxon Corporation | 1,200 | 53.173 | 63,807 | 60.750 | 72,900 |
| Nabors Industries, Inc. | 17,500 | 8.766 | 153,412 | 6.500 | 113,750 |
| RTZ Corp. | 3,300 | 53.332 | 175,996 | 52.625 | 173,662 |
| Schlumberger Limited | 4,000 | 58.498 | 233,993 | 50.375 | 201,500 |
| Ultramar Corp. | 8,000 | 19.243 | 153,943 | 25.500 | 204,000 |
| Unocal Corp. | 9,000 | 26.726 | 240,538 | 27.250 | 245,250 |
| Total energy | | | 1,089,808 | | 1,056,562 |
| Financial: | | | | | |
| American International Group Inc. | 1,400 | 66.006 | 92,408 | 98.000 | 137,200 |
| Federal National Mortgage Association | 1,000 | 58.348 | 58,348 | 72.875 | 72,875 |
| First Empire State Corporation* | 190,088 | 98.493 | 18,722,361 | 136.000 | 25,851,968 |
| General Reinsurance Corp. | 600 | 85.778 | 51,467 | 123.500 | 74,100 |
| Morgan, JP & Company, Inc. | 1,200 | 54.675 | 65,610 | 56.125 | 67,350 |
| Total financial | | | 18,990,194 | | 26,203,493 |
| Health care: | | | | | |
| Bristol-Myers Squibb Co. | 1,000 | 77.363 | 77,363 | 57.875 | 57,875 |
| Johnson & Johnson Co. | 1,200 | 48.798 | 58,558 | 54.750 | 65,700 |
| Merck & Co., Inc. | 1,500 | 51.539 | 77,309 | 38.125 | 57,187 |
| Mylan Laboratories, Inc. | 2,500 | 18.996 | 47,491 | 27.000 | 67,500 |
| Total health care | | | 260,721 | | 248,262 |

* See note 5 to the financial statements

| Name and title of issue | Number of shares or principal amount | Unit cost | Total cost | Current value Per unit | Current value Total |
|---|---|---|---|---|---|
| Common stock (continued) | | | | | |
| Industrials: | | | | | |
| Aluminum Company of America | 1,200 | $ 72.125 | $ 86,550 | $ 86.625 | $ 103,950 |
| Avnet Inc. | 4,800 | 33.063 | 158,701 | 37.000 | 177,600 |
| Commercial Metals Co. | 8,066 | 19.970 | 161,076 | 27.000 | 217,782 |
| Cooper Industries Inc. | 5,400 | 43.551 | 235,175 | 34.000 | 183,600 |
| Corning Inc. | 2,800 | 36.570 | 102,396 | 29.875 | 83,650 |
| Crown Cork & Seal Co. Inc. | 2,200 | 36.245 | 79,739 | 37.750 | 83,050 |
| Dresser Industries Inc. | 4,000 | 23.120 | 92,480 | 18.875 | 75,500 |
| Emerson Electric Company | 3,000 | 54.370 | 163,109 | 62.375 | 187,125 |
| Kirby Corp. | 11,200 | 17.661 | 197,804 | 19.750 | 221,200 |
| Santa Fe Pacific Corp. | 6,000 | 9.853 | 59,115 | 17.500 | 105,000 |
| Santa Fe Pacific Gold Corp. | 8,100 | 13.316 | 107,860 | 13.000 | 105,300 |
| Union Pacific Corp. | 2,500 | 62.620 | 156,550 | 45.375 | 113,438 |
| Zero Corp. | 20,200 | 13.742 | 277,580 | 14.000 | 282,800 |
| Total industrials | | | 1,878,135 | | 1,939,995 |
| Materials: | | | | | |
| Champion International Corp. | 3,200 | 30.074 | 96,236 | 36.500 | 116,800 |
| Dupont (E.I.) DeNemours & Company | 4,500 | 51.866 | 233,395 | 56.125 | 252,562 |
| Hercules, Inc. | 2,500 | 85.587 | 213,967 | 115.375 | 288,437 |
| International Paper Co. | 1,400 | 67.174 | 94,043 | 75.375 | 105,525 |
| Material Sciences Corp. | 19,750 | 12.227 | 241,489 | 15.875 | 313,531 |
| Newmont Mining Company | 6,666 | 40.648 | 270,961 | 36.000 | 239,976 |
| Pall Corp. | 4,000 | 20.430 | 81,718 | 18.750 | 75,000 |
| Placer Dome Inc. | 5,000 | 24.480 | 122,400 | 21.750 | 108,750 |
| Potash Corp. Saskatchewan Inc. | 7,700 | 27.433 | 211,232 | 34.000 | 261,800 |
| Worthington Industries Inc. | 2,000 | 16.834 | 33,667 | 20.000 | 40,000 |
| Total materials | | | 1,599,108 | | 1,802,381 |

| Name and title of issue | Number of shares or principal amount | Unit cost | Total cost | Current value Per unit | Current value Total |
|---|---|---|---|---|---|
| Common stock (continued) | | | | | |
| Technology: | | | | | |
| AMP Inc. | 2,900 | $ 62.440 | $ 181,075 | $ 72.750 | $ 210,975 |
| Continuum Company Inc. | 11,100 | 20.073 | 222,815 | 30.500 | 338,550 |
| Hewlett-Packard Co. | 1,300 | 62.740 | 81,562 | 99.875 | 129,838 |
| Micron Technology Inc. | 2,500 | 43.120 | 107,800 | 44.125 | 110,312 |
| Texas Instruments, Inc. | 1,700 | 58.046 | 98,679 | 74.875 | 127,288 |
| Total technology | | | 691,931 | | 916,963 |
| Utilities: | | | | | |
| American Telephone & Telegraph Co. | 2,300 | 40.265 | 92,610 | 50.250 | 115,575 |
| IPALCO Enterprises Inc. | 4,800 | 30.221 | 145,063 | 30.000 | 144,000 |
| PECO Energy | 5,000 | 28.880 | 144,400 | 24.500 | 122,500 |
| SCE Corp. | 4,600 | 22.203 | 102,134 | 14.625 | 67,275 |
| Union Electric Co. | 2,500 | 35.302 | 88,256 | 35.375 | 88,437 |
| Total utilities | | | 572,463 | | 537,787 |
| Total common stock | | | $27,071,735 | | $ 34,666,101 |

| Name and title of issue | Number of shares or principal amount | Unit cost | Total cost | Current value Per unit | Current value Total |
|---|---|---|---|---|---|
| **U.S. government and agency obligations** | | | | | |
| U.S. Treasury note, 7.750%, due 02/15/95 | $ 50,000 | 101.390 | $ 50,695 | 100.250 | $ 50,125 |
| U.S. Treasury note, 8.500%, due 05/15/95 | 75,000 | 100.016 | 75,012 | 100.749 | 75,562 |
| U.S. Treasury note, 8.875%, due 02/15/96 | 100,000 | 101.094 | 101,094 | 101.500 | 101,500 |
| U.S. Treasury note, 7.000%, due 09/30/96 | 50,000 | 99.710 | 49,855 | 98.968 | 49,484 |
| U.S. Treasury note, 6.875%, due 10/31/96 | 500,000 | 99.406 | 497,031 | 98.656 | 493,280 |
| U.S. Treasury note, 7.250%, due 11/30/96 | 225,000 | 99.281 | 223,382 | 99.250 | 223,313 |
| U.S. Treasury note, 8.125%, due 02/15/98 | 125,000 | 98.485 | 123,106 | 100.812 | 126,015 |
| Federal National Mortgage Association, 5.300%, due 07/25/98 | 191,490 | 100.203 | 191,879 | 98.600 | 188,809 |
| U.S. Treasury, zero coupon note, due 11/15/98 | 100,000 | 78.433 | 78,433 | 74.179 | 74,179 |
| Federal Home Loan Mortgage Corp., 6.000%, due 05/15/99 | 202,046 | 101.297 | 204,666 | 91.950 | 185,781 |
| U.S. Treasury note, 8.000%, due 08/15/99 | 100,000 | 96.643 | 96,643 | 100.594 | 100,594 |
| U.S. Treasury note, 6.375%, due 01/15/2000 | 150,000 | 99.805 | 149,708 | 94.000 | 141,000 |
| U.S. Treasury note, 8.750%, due 08/15/2000 | 100,000 | 101.453 | 101,453 | 104.156 | 104,156 |
| U.S. Treasury note, 8.000%, due 05/15/2001 | 125,000 | 99.434 | 124,293 | 100.812 | 126,015 |
| U.S. Treasury note, 6.375%, due 08/15/2002 | 75,000 | 98.829 | 74,122 | 91.563 | 68,672 |
| U.S. Treasury note, 7.250%, due 08/15/2004 | 400,000 | 97.188 | 388,750 | 96.000 | 384,000 |
| Federal National Mortgage Association, 5.500%, due 01/25/2013 | 200,000 | 99.063 | 198,125 | 91.940 | 183,880 |
| Total U.S. government and agency obligations | | | $ 2,728,247 | | $ 2,676,365 |

| Name and title of issue | Number of shares or principal amount | Unit cost | Total cost | Current value Per unit | Current value Total |
|---|---|---|---|---|---|
| Corporate bonds | | | | | |
| General Tel. Co. Calif., 1st mtg., 4.500%, due 03/01/95 | $ 100,000 | 100.125 | $ 100,125 | 99.750 | $ 99,750 |
| Lehman Bros. Holdings Inc., zero coupon note, due 05/16/97 | 300,000 | 82.385 | 247,155 | 81.625 | 244,875 |
| Discover Card, 6.250%, due 08/15/98 | 100,000 | 99.681 | 99,681 | 94.500 | 94,500 |
| PepsiCo, Inc. note, 7.625%, due 11/01/98 | 50,000 | 99.758 | 49,879 | 97.876 | 48,938 |
| Westinghouse Credit Corp. note, 8.875%, due 06/14/2014 | 150,000 | 112.517 | 168,775 | 99.000 | 148,500 |
| GE Capital Mortgage Services Inc., 7.000%, due 03/25/2021 | 253,000 | 99.938 | 252,842 | 85.480 | 216,264 |
| Prudential Home Mtg., 2nd mtg., 7.000%, due 08/25/2023 | 300,000 | 100.000 | 300,000 | 83.730 | 251,190 |
| Residential Funding Mortgage 7.000%, due 08/25/2023 | 200,000 | 101.438 | 202,875 | 84.020 | 168,040 |
| Total corporate bonds | | | $ 1,421,332 | | $ 1,272,057 |
| Loans to participants | | | | | |
| 7%-11%, fully secured by vested benefits, due 1995 through 1999 | $ 1,827,121 | - | $ 1,827,121 | - | $ 1,827,121 |
| Total investments | | | $43,321,339 | | $50,714,548 |

SCHEDULE II
SCHEDULE OF TRANSACTIONS IN EXCESS OF 5% OF FAIR VALUE OF PLAN ASSETS
FOR THE YEAR ENDED DECEMBER 31, 1994

| | Purchases | | Sales/distributions | | | |
|---|---|---|---|---|---|---|
| Description of asset | Number of transactions | Cost | Number of transactions | Proceeds | Basis | Gain (loss) |
| Short-term investments: | | | | | | |
| Vision Group of Funds, Inc. Money Market Fund | 410 | $15,708,042 | 158 | $14,630,881 | 14,630,881 | - |
| Common stock: | | | | | | |
| First Empire State Corporation | 27 | 4,218,308 | 16 | 636,446 | 608,537 | 27,909 |