FEDERAL RESERVE SYSTEM

First Bancorp
Troy, North Carolina

Order Approving the Acquisition of a Bank Holding Company

First Bancorp, a bank holding company within the meaning of the Bank Holding Company Act ("BHC Act"), has requested the Board's approval under section 3 of the BHC Act (12 U.S.C. § 1842) to acquire First Savings Bancorp, Inc. ("First Savings") and its wholly owned subsidiary bank, First Savings Bank of Moore County, Inc., SSB ("Bank"), both of Southern Pines, North Carolina.[1]

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (65 Federal Register 21,198 (2000)). The time for filing comments has expired, and the Board has considered the proposal and all comments received in light of the factors set forth in section 3 of the BHC Act.

First Bancorp, with total consolidated assets of approximately $624 million, is the 15th largest depository institution in North Carolina, controlling approximately $452 million in deposits, representing less than 1 percent of total deposits in depository institutions in the state ("state

[1] First Bancorp also has requested approval to exercise an option to acquire up to 19.9 percent of First Savings's voting shares on the occurrence of certain events. The option would expire on consummation of this proposal. In addition, First Bancorp intends to merge Bank with and into First Bancorp's existing subsidiary bank after consummation of the holding company merger.

deposits").[2] First Savings, with total consolidated assets of approximately $330 million, is the 26th largest depository institution in North Carolina, controlling deposits of approximately $232 million, representing less than 1 percent of state deposits. On consummation of the proposal and taking into account the proposed divestiture discussed in this order, First Bancorp would become the tenth largest depository institution in North Carolina, controlling deposits of approximately $668 million, representing less than 1 percent of state deposits.

Competitive Considerations

Section 3 of the BHC Act prohibits the Board from approving an application to acquire a bank holding company if the proposal would result in a monopoly or would be in furtherance of any attempt to monopolize the business of banking. Section 3 of the BHC Act also prohibits the Board from approving a proposed combination that substantially would lessen competition or tend to create a monopoly in any relevant banking market, unless the Board finds that the anticompetitive effects of the proposal clearly are outweighed in the public interest by the probable effects of the proposal in meeting the convenience and needs of the community to be served.[3]

First Bancorp and First Savings compete directly in the Moore County banking market, which the Federal Reserve Bank of Richmond (the "Reserve Bank") has defined as Moore County, North Carolina. The Board has carefully reviewed the competitive effects of the proposal in the

[2] Asset data are as of June 30, 2000, and deposit and ranking data are as of June 30, 1999. In this context, depository institutions include commercial banks, savings banks, and savings associations.

[3] 12 U.S.C. § 1842(c).

relevant banking market in light of all the facts of record, including the attractiveness of the market for entry, the number of competitors that would remain in the market on consummation of the proposal, the concentration levels of market deposits and the increase in these levels as measured by the Herfindahl-Hirschman Index ("HHI") under the Department of Justice Merger Guidelines ("DOJ Guidelines"), and other characteristics of the market.[4]

In order to determine the effect of a particular transaction on competition, it is necessary to designate the area of effective competition between the parties, which the courts have held is decided by reference to the relevant "line of commerce," or product market, and geographic market. The Board and the courts consistently have recognized that the appropriate product market for analyzing the competitive effects of mergers and acquisitions is the cluster of products (various kinds of credit) and services (such as checking accounts and trust administration) offered by banking institutions, and First Bancorp has not challenged that definition of the product market.[5] However, First Bancorp has suggested that the relevant

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[4] Under the DOJ Guidelines, 49 Federal Register 26,823 (1984), a market in which the post-merger HHI is more than 1800 is considered highly concentrated. The Department of Justice has informed the Board that a bank merger or acquisition generally will not be challenged (in the absence of other factors indicating anticompetitive effects) unless the post-merger HHI is at least 1800 and the merger increases the HHI by more than 200 points. The Department of Justice has stated that the higher than normal thresholds for screening bank mergers for anticompetitive effects implicitly recognize the competitive effects of limited-purpose lenders and other nondepository financial institutions.

[5] See First Security Corporation, 86 Federal Reserve Bulletin 122 (2000) ("First Security"); see also Chemical Banking Corporation, 82 Federal Reserve Bulletin 239 (1996) ("Chemical"), and the cases and studies cited therein. The Supreme Court has emphasized that it is the cluster of products

geographic market includes not only Moore County, but also all the counties that are contiguous to Moore County.

In defining the relevant geographic market, the Board consistently has sought to identify the area in which the cluster of banking products and services is provided by competing institutions and in which purchasers of the products and services seek to obtain these products and services.[6] In applying these standards to bank acquisition proposals, the Board and the courts repeatedly have held that the geographic market for the cluster of banking products and services is local in nature.[7] In delineating the relevant geographic market in which to assess the competitive effects of a bank merger or acquisition, the Board reviews population density; worker commuting patterns; the usage and availability of banking products; advertising patterns of financial institutions; the presence of shopping,

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and services that, as a matter of trade reality, makes banking a distinct line of commerce. See United States v. Philadelphia National Bank, 374 U.S. 321, 357 (1963) ("Philadelphia National"); accord United States v. Connecticut National Bank, 418 U.S. 656 (1974); United States v. Phillipsburg National Bank, 399 U.S. 350 (1969) ("Phillipsburg National").

[6] See, e.g., First Security; Sunwest Financial Services, Inc., 73 Federal Reserve Bulletin 463 (1987); Pikeville National Corporation, 71 Federal Reserve Bulletin 240 (1985); Wyoming Bancorporation, 68 Federal Reserve Bulletin 313 (1982); aff'd 729 F.2d 687 (10th Cir., 1984).

[7] See Philadelphia National, 374 U.S. at 357; Phillipsburg National; First Security; First Union Corporation, 84 Federal Reserve Bulletin 489 (1998); Chemical; St. Joseph Valley Bank, 68 Federal Reserve Bulletin 673 (1982).

employment, healthcare, and other necessities; and other indicia of economic integration and transmission of competitive forces among banks.[8]

Commuting data for 1990 from the U.S. Bureau of the Census indicated that only one contiguous county, Hoke County, had a significant number of its workforce commuting to Moore County. However, an equal number of Hoke County residents commuted to Cumberland County, which includes the city of Fayetteville. All the bank offices in Hoke County are located in a town included in the Fayetteville Ranally Metropolitan Area ("RMA"). These data suggest that the banking activity in Hoke County is aligned more closely with Cumberland County and the Fayetteville RMA than with Moore County. In addition to reviewing carefully commuting patterns, the Board has considered other data, including information obtained from local economic officials in the Moore County area, and has concluded that the facts of record do not support expanding the Moore County banking market.

Based on the Reserve Bank's analysis of the appropriate market definition and all the facts of record, including commuting patterns and other commercial patterns throughout Moore County and the contiguous counties, the Board concludes that the appropriate geographic market for considering the competitive effects of the proposal is Moore County.

First Bancorp's subsidiary bank is the third largest depository institution in the Moore County banking market and controls deposits of $104.5 million, representing 11.3 percent of total deposits in depository

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[8] See Chemical; Crestar Bank, 81 Federal Reserve Bulletin 200, 201 n.5 (1995); Pennbancorp, 69 Federal Reserve Bulletin 548 (1983).

institutions in the market ("market deposits").[9] The First Savings subsidiary bank is the second largest depository institution in the banking market and controls deposits of $115.9 million, representing 12.5 percent of market deposits. To reduce the potential for adverse effects on competition, First Bancorp has committed to divest one branch that controls approximately $15.6 million in deposits to an out-of-market firm.[10] After the proposed merger and divestiture, First Bancorp would become the second largest competitor in the market, controlling 30.8 percent of market deposits, and the HHI would increase 349 points to 2146.

Numerous factors suggest that the increase in concentration as measured by the HHI does not indicate a significantly adverse effect on

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[9] Market share data are as of June 30, 1999, and have been adjusted to reflect acquisitions consummated since that time. Market share data are based on calculations in which the deposits of thrift institutions, including Bank and other savings banks, are included at 50 percent. The Board previously has indicated that thrift institutions have become, or have the potential to become, significant competitors of commercial banks. See Midwest Financial Group, 75 Federal Reserve Bulletin 386 (1989); National City Corporation, 70 Federal Reserve Bulletin 743 (1984). Because the deposits of the First Savings Bank of Moore County, Inc., would be acquired by a commercial banking organization, those deposits are included at 100 percent in the calculation of pro forma market share. See Norwest Corporation, 78 Federal Reserve Bulletin 452 (1992); First Banks, Inc., 76 Federal Reserve Bulletin 669 (1990).

[10] First Bancorp has committed to execute, before consummating the acquisition of First Savings, a sales agreement for the proposed divestiture with an out-of-market purchaser. First Bancorp also has committed that if it is unsuccessful in completing the proposed divestiture within 180 days of acquiring First Savings, it will transfer the unsold branch to an independent trustee to sell the branch promptly to an alternative purchaser determined by the Board to be competitively suitable.

competition in the Moore County banking market in this case after the proposed divestiture. Because the proposed divestiture would be to an out-of-market banking organization, a new competitor would enter the banking market as a result of the proposal. The total number of competitors in the banking market would remain unchanged at twelve, including four large multistate banking organizations, one of which would be the largest depository institution in the market, controlling 31.5 percent of market deposits.

In addition to the structural factors discussed above, the Moore County banking market has characteristics that indicate it is attractive for entry. Two depository institutions have entered the banking market de novo since June 1997, including one entrant earlier this year. The banking market is a relatively large rural county with deposits of approximately $1 billion, ranking third among the 65 rural counties in North Carolina in total deposits.[11] In the last three years the population of Moore County has increased 2.1 percent, which is almost twice the average rate of population increase in rural counties in North Carolina. Moreover, the per capita income level in Moore County exceeds the average for rural counties in the state.

The Board believes that the foregoing considerations, including the number of competitors that would remain in the Moore County banking market after consummation of the proposal and the structure and attractiveness of that market, mitigate the potential anticompetitive effects of the transaction in this case.

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[11] In this context, "rural county" means a county that is not included in a metropolitan statistical area.

The Department of Justice has conducted a detailed review of the proposal and advised the Board that consummation of the proposal likely would not have a significantly adverse effect on competition in any relevant banking market. The Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation also have been afforded an opportunity to comment and have not objected to consummation of the proposal.

After carefully reviewing all the facts of record, and for the reasons discussed in this order, the Board concludes that consummation of the proposal would not be likely to result in a significantly adverse effect on competition or on the concentration of banking resources in the Moore County banking market or in any other relevant banking market. Accordingly, based on all the facts of record and subject to completion of the proposed divestiture and compliance with related commitments, the Board has determined that competitive effects are consistent with approval of the proposed transaction.

Other Considerations

Section 3 of the BHC Act requires the Board, in acting on an application, to consider the financial and managerial resources and future prospects of the companies and banks involved and certain supervisory factors. The Board has reviewed these factors in light of the record, including supervisory reports of examination assessing the financial and managerial resources of the organizations and financial information provided by First Bancorp. Based on all the facts of record, the Board concludes that the financial and managerial resources and future prospects of First Bancorp, First Savings, and their respective subsidiary banks are consistent with approval, as are the other supervisory factors the Board must consider under section 3 of the BHC Act.

Section 3 of the BHC Act also requires the Board to consider the convenience and needs of the communities to be served. The Board has reviewed information presented by First Bancorp related to the convenience and needs factor and the records of performance of the relevant depository institutions under the Community Reinvestment Act (12 U.S.C. § 2901 et seq.) ("CRA"). Based on all the facts of record, the Board concludes that considerations relating to the convenience and needs of the communities to be served, including the CRA performance records of the depository institutions of First Bancorp and First Savings, are consistent with approval.

Conclusion

Based on the foregoing, and in light of all the facts of record, the Board has determined that the application should be, and hereby is, approved. Approval of the application is conditioned specifically on compliance by First Bancorp with all the commitments made in connection with the proposal, including First Bancorp's divestiture commitments, and with the conditions stated or referred to in this order. For the purpose of this action, the commitments and conditions relied on by the Board in reaching its decision are deemed to be conditions imposed in writing by the Board in connection with its findings and decision and, as such, may be enforced in proceedings under applicable law.

The acquisition of First Savings shall not be consummated before the fifteenth calendar day following the effective date of this order, or later than three months after the effective date of this order, unless such period is extended for good cause by the Reserve Bank acting pursuant to delegated authority.

By order of the Board of Governors, effective August 21, 2000.[12]

(signed)

Robert deV. Frierson
Associate Secretary of the Board

[12] Voting for this action: Chairman Greenspan, Vice Chairman Ferguson, and Governors Kelley, Meyer, and Gramlich.