FEDERAL RESERVE SYSTEM

Wells Fargo & Company
San Francisco, California

Order Approving the Acquisition of a Bank Holding Company

Wells Fargo & Company ("Wells Fargo"), 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 Brenton Banks, Inc., ("Brenton") and its subsidiary bank, Brenton Bank, both of Des Moines, Iowa. Wells Fargo also has requested the Board's approval under sections 4(c)(8) and 4(j) of the BHC Act (12 U.S.C. §§ 1843(c)(8) and 1843(j)) and section 225.24 of the Board's Regulation Y (12 C.F.R. 225.24) to acquire Brenton's nonbanking subsidiaries, including Brenton Savings Bank, FSB, Ames, Iowa ("Brenton Savings").

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (65 Federal Register 54,533 (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 sections 3 and 4 of the BHC Act.

Wells Fargo, with total consolidated assets of $234 billion, is the seventh largest commercial banking organization in the United States, controlling 3.4 percent of total assets of insured commercial banks in the United States.[1] Wells Fargo operates a large network of subsidiary banks in 23 states, including

[1] Asset and ranking data are as of June 30, 2000.

Iowa.[2] Wells Fargo is the largest commercial banking organization in Iowa, controlling deposits of $4.3 billion, representing approximately 10.4 percent of total deposits in depository institutions in the state ("state deposits").[3] Brenton, with total consolidated assets of $2 billion, also operates depository institutions in Iowa. Brenton is the fifth largest commercial banking organization in Iowa, controlling deposits of $1.5 billion, representing approximately 3.5 percent of state deposits. On consummation of the proposal, and taking into account the proposed divestitures discussed in this order, Wells Fargo would remain the largest commercial banking organization in Iowa, controlling deposits of approximately $5.7 billion, representing approximately 13.6 percent of state deposits.

Interstate Analysis

Section 3(d) of the BHC Act allows the Board to approve an application by a bank holding company to acquire control of a bank located in a state other than the home state of the bank holding company if certain conditions are met.[4] For purposes of the BHC Act, the home state of Wells Fargo is California, and Brenton Bank is located in Iowa.[5]

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[2] Wells Fargo operates in Alaska, Arizona, California, Colorado, Idaho, Iowa, Illinois, Indiana, Michigan, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming.

[3] Deposit data are as of June 30, 1999. In this context, depository institutions include commercial banks, savings banks, and savings associations.

[4] See 12 U.S.C. § 1842(d). A bank holding company's home state is the state in which the total deposits of all banking subsidiaries of the company were largest on July 1, 1966, or on the date when the company became a bank holding company, whichever is later. 12 U.S.C. § 1841(o)(4)(C).

[5] For purposes of section 3(d) of the BHC Act, the Board considers a bank to be located in the state in which the bank operates a branch or is chartered or headquartered. NationsBank Corporation, 84 Federal Reserve Bulletin 858 (1998).

All the conditions for an interstate acquisition enumerated in section 3(d) of the BHC Act are met in this case.[6] In view of all the facts of record, the Board is permitted to approve the proposal under section 3(d) of the BHC Act.

Competitive Considerations

Section 3 of the BHC Act prohibits the Board from approving an application if the proposal would result in a monopoly or would be in furtherance of any attempt to monopolize the business of banking in any relevant market. The BHC Act also prohibits the Board from approving a proposed combination that would substantially lessen competition or tend to create a monopoly in any relevant banking market, unless the Board finds that the anticompetitive effects of the proposal are clearly outweighed in the public interest by the probable effects of the proposal in meeting the convenience and needs of the community to be served.[7]

The Board has carefully reviewed the competitive effects of the proposal in the relevant banking markets in light of all the facts of record, including the number of competitors that would remain in the markets, the relative shares of total deposits in depository institutions in the markets ("market deposits") controlled by the companies involved in the transaction,[8] the concentration levels

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6 See 12 U.S.C. §§ 1842(d)(1)(A) and (B) and 1842(d)(2)(A) and (B). Brenton Bank has been in existence and continuously operated for the minimum period required under state law. See Iowa Code Ann. § 524.1805(1) (five year minimum). In addition, on consummation of the proposal, Wells Fargo and its affiliates would control less than 10 percent of the total amount of deposits of insured depository institutions in the United States and would not exceed applicable deposit limitations as calculated under state law. See Iowa Code Ann. § 524.1802(2)(b) (establishing a 15-percent deposit cap). Wells Fargo also meets the capital, managerial, and other requirements established under applicable law.

7 12 U.S.C. § 1842(c).

8 Market share data are as of June 30, 1999, and are based on calculations that include the deposits of thrift institutions at 50 percent. The Board previously has

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 markets.[9]

Wells Fargo and Brenton compete directly in five banking markets: Ames,[10] Cedar Rapids,[11] Des Moines,[12] and Marshall County,[13] all in Iowa, and

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indicated that thrift institutions have become, or have the potential to become, significant competitors of commercial banks. See WM Bancorp, 76 Federal Reserve Bulletin 788 (1990); National City Corporation, 70 Federal Reserve Bulletin 743 (1984). Thus, the Board has regularly included thrift deposits in the calculation of market share on a 50-percent weighted basis. See, e.g., First Hawaiian, Inc., 77 Federal Reserve Bulletin 52 (1991). Because the Board has analyzed the competitive factors in this case as if Wells Fargo and Brenton were a combined entity, the deposits of Brenton Savings 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).

9 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 HHI thresholds for screening bank mergers for anticompetitive effects implicitly recognize the competitive effects of limited-purpose lenders and other nondepository financial institutions.

10 The Ames banking market is defined as Boone and Story Counties, and Clear Lake, Ellsworth, Lincoln, Lyon, Marion, and Scott Townships in Hamilton County, Iowa.

11 The Cedar Rapids banking market is defined as Linn County and Jefferson Township in Johnson County, Iowa.

12 The Des Moines banking market is defined as Polk County and Linn Township in Warren County, Iowa.

Rock Island-Davenport,[14] in Iowa and Illinois. In the Ames, Cedar Rapids, and Rock Island-Davenport banking markets, consummation of the proposal without divestitures would be consistent with the DOJ Guidelines and Board precedent.[15]

A. Des Moines Banking Market

Wells Fargo's subsidiary bank, Wells Fargo Bank Iowa, National Association, Des Moines, Iowa ("Wells Iowa"), is the largest depository institution in the Des Moines banking market and controls deposits of approximately $1.9 billion, representing 34.5 percent of market deposits. Brenton Bank is the fifth largest depository institution in the market and controls deposits of approximately $372.1 million, representing 6.9 percent of market deposits. In order to mitigate the potential anticompetitive effects of the proposal in this market, Wells Fargo has committed to divest three branches of Brenton Bank with at least $110 million in total deposits at the time of divestiture to a commercial

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13 The Marshall County banking market is defined as Marshall County and Carlton, Highland, Indian Village, and Spring Creek Townships in Tama County, Iowa.

14 The Rock Island-Davenport banking market is defined as Scott County and Farmington Township in Cedar County, Iowa, and Rock Island County except for Buffalo Prairie and Drury Townships, and Colona, Edgord, Geneseo, and Western Townships in Henry County, Illinois.

15 On consummation of the proposal, Wells Fargo would become the third largest banking organization in the Ames banking market and control $119.3 million in deposits, representing 9.3 percent of market deposits. The HHI would increase 30 points to 1839. In the Cedar Rapids banking market, Wells Fargo would become the largest banking organization in the market and control $572 million in deposits, representing 26.9 percent of market deposits. The HHI would increase 268 points to 1662. In the Rock Island-Davenport banking market, Wells Fargo would become the largest banking organization in the market and control $976.6 million in deposits, representing 21.2 percent of market deposits. The HHI would increase 107 points to 1111.

bank that currently does not operate in the market.[16] With this divestiture, the HHI for the market would increase 314 points to 1930, and Wells Fargo would remain the largest depository institution in the Des Moines market with 39.3 percent of market deposits.

B. Marshall County Banking Market

In the Marshall County banking market, Wells Iowa is the seventh largest depository institution and controls deposits of approximately $24.3 million, representing 3.7 percent of market deposits. Brenton Bank is the second largest depository institution in the market and controls deposits of $184.7 million, representing 28.4 percent of market deposits. On consummation of the proposal, the HHI would increase 213 points to 2393.

C. Mitigating Factors

As the Board has indicated in previous cases, in a market in which the competitive effects of a proposal exceed the DOJ Guidelines, the Board will consider whether other factors tend to mitigate the competitive effects of the proposal. The number and strength of factors necessary to mitigate the competitive effects of a proposal depend on the level of market concentration and the size of the increase in market concentration.[17]

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[16] Wells Fargo has committed to execute sales agreements for the proposed divestitures, before consummation of the acquisition of Brenton, with a purchaser determined by the Board to be competitively suitable. Wells Fargo also has committed that, if it is unsuccessful in completing any divestiture within 180 days of consummation, it will transfer the unsold office(s) to an independent trustee that is acceptable to the Board and will instruct the trustee to sell the office(s) promptly to one or more alternative purchasers acceptable to the Board. See BankAmerica Corporation, 78 Federal Reserve Bulletin 338 (1992); United New Mexico Financial Corporation, 77 Federal Reserve Bulletin 484 (1991).

[17] See NationsBank Corporation, 84 Federal Reserve Bulletin 129 (1998).

In reviewing the competitive effects of this proposal, the Board has considered that several factors appear to mitigate the likely effect of the proposal on competition in the Des Moines and Marshall County banking markets. For example, in the Des Moines banking market, 27 banking organizations excluding Wells Fargo would remain in the market after the proposed acquisition. Three of these organizations would each control more than 8.8 percent of market deposits. The market also appears to be attractive to out-of-market and de novo competitors. Since 1997, ten depository institutions have entered the Des Moines banking market, five by opening branches, and five de novo. An eleventh market entrant is in formation. In addition, Des Moines is the largest market in Iowa in terms of deposits and is increasing in population more rapidly than other metropolitan areas in the state.

In the Marshall County banking market, 11 banking organizations excluding Wells Fargo would remain in the market after the proposed acquisition, including several large multistate banking organizations. Brenton is currently the second largest banking organization in the market, and a merged Wells Fargo/Brenton organization would retain that position in the market. In addition, Marshall County appears to be relatively attractive for entry by out-of-market competitors, as it has increased in population more rapidly and is wealthier than other rural markets in Iowa. Specifically, the population of Marshall County has increased slightly from 1996 to 1999, while other rural Iowa counties decreased in population, on average, during the same period. In addition, per capita income in Marshall County in 1998 was almost 10 percent higher than the average for rural counties in Iowa, and in 1999, the average deposits per bank branch in Marshall County were 60 percent higher than the average for all rural Iowa counties. Seven banking organizations have entered the Marshall County market by acquisition in the last three years.

The Department of Justice has also conducted a detailed review of the anticipated competitive effects of the proposal. The Department of Justice has advised the Board that, in light of the proposed divestitures, consummation of the proposal would not have a significantly adverse effect on competition in any relevant banking market.

After carefully reviewing all the facts of record, and for the reasons discussed in the order, the Board concludes that consummation of the proposal would not likely result in a significantly adverse effect on competition or on the concentration of banking resources in any of the banking markets in which Wells Fargo and Brenton directly compete or in any other relevant banking market. Accordingly, based on all the facts of record, and subject to completion of the proposed divestitures and compliance with the related commitments, the Board has determined that the competitive factors are consistent with approval of the proposal.

Other Considerations

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, the convenience and needs of the communities to be served, 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 Wells Fargo. Based on all the facts of record, the Board concludes that the financial and managerial resources and the future prospects of Wells Fargo, Brenton, and their respective depository institutions are consistent with approval, as are the other supervisory factors the Board must consider under section 3 of the BHC Act. In addition, considerations related to the convenience and needs of the communities to be served, including the records of performance of the relevant institutions under the Community Reinvestment Act (12 U.S.C. § 2901 et seq.) ("CRA"), are consistent with approval of the proposal.[18]

Nonbanking Activities

Wells Fargo has filed notice under sections 4(c)(8) and 4(j) of the BHC Act to acquire Brenton's nonbanking subsidiaries and thereby engage in operating a savings association and in lending activities. The Board has determined by regulation that these activities are closely related to banking for purposes of the BHC Act.[19] Wells Fargo has committed to conduct these nonbanking activities in accordance with the limitations set forth in Regulation Y and the Board's orders and interpretations.

In order to approve this notice, the Board is required by section 4(j)(2) of the BHC Act to determine that the acquisition of the nonbanking subsidiaries of Brenton by Wells Fargo "can reasonably be expected to produce benefits to the public . . . that outweigh possible adverse effects, such as undue concentration of

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18 Wells Fargo's lead bank, Wells Fargo Bank, N.A., San Francisco, California, which accounts for approximately 45 percent of the total consolidated assets of Wells Fargo, received an "outstanding" rating at its most recent examination for CRA performance by its primary federal supervisor, the Office of the Comptroller of the Currency, as of June 1998. All of Wells Fargo's other subsidiary banks received ratings of either "outstanding" or "satisfactory" at the most recent examinations of their CRA performance. Brenton Bank received a CRA rating of "satisfactory" from the Federal Deposit Insurance Corporation, as of August 1999, and Brenton Savings received a CRA rating of "satisfactory" from the Office of Thrift Supervision, as of January 1998.

19 See 12 C.F.R. 225.28(b)(1) and (4).

resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."[20]

As part of its evaluation of these factors, the Board considers the financial and managerial resources of Wells Fargo and its subsidiaries, including the companies to be acquired, and the effect of the proposed transaction on those resources. For the reasons noted above, and based on all the facts of record, the Board has concluded that financial and managerial considerations are consistent with approval of the notice.

The Board also has considered the competitive effects of Wells Fargo's proposed acquisition of the nonbanking subsidiaries of Brenton in light of all the facts of record. For the reasons already discussed, the Board has concluded that Wells Fargo's proposed acquisition of Brenton Savings would not likely result in decreased or unfair competition or undue concentration of resources in the Ames, Iowa, banking market.

The Board also expects that the proposed transaction would give Wells Fargo an increased ability to serve the needs of its customers through the expansion of its affiliates' branch network in Iowa, and would give customers of Brenton Bank and Brenton Savings access to products and services offered by Wells Fargo's other bank and nonbank affiliates, including mortgage and investment banking, insurance agency services, venture capital financing, consumer financing, trust services, international trade financing, leasing, and asset-backed lending. In addition, there are public benefits to be derived from permitting capital markets to operate so that bank holding companies can make potentially profitable investments in nonbanking companies and from permitting banking organizations to allocate their resources in the manner they consider to be most efficient when such investments are consistent, as in this case, with the relevant considerations under the BHC Act.

The Board concludes that the conduct of the proposed nonbanking activities within the framework of Regulation Y and Board precedent is not likely to result in adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices, that would outweigh the public benefits of the proposal, such as increased customer convenience and gains in efficiency. Accordingly, based on all the facts of record, the Board has determined that the balance of public interest factors that the Board must consider under section 4(j)(2)(A) of the BHC Act is favorable and consistent with approval of the proposal.

Conclusion

Based on the foregoing, and in light of all the facts of record, the Board has determined that the application and notice should be, and hereby are, approved. Approval of the application and notice is specifically conditioned on compliance by Wells Fargo with all the commitments made in connection with the proposal and with the conditions stated or referred to in this order, including Wells Fargo's divestiture commitments. The Board's determination on the nonbanking activities also is subject to all the terms and conditions set forth in Regulation Y, including those in sections 225.7 and 225.25(c) (12 C.F.R. 225.7 and 225.25(c)), and the Board's authority to require such modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to ensure compliance with, and to prevent evasion of, the provisions of the BHC Act and the Board's regulations and orders thereunder. For purposes of the transaction, the commitments and conditions referred to in this order shall be

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[20] 12 U.S.C. § 1843(j)(2)(A).

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 the subsidiary banks of Brenton shall not be consummated before the fifteenth calendar day after the effective date of this order, and the proposal shall not be consummated later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of San Francisco, acting pursuant to delegated authority.

By order of the Board of Governors,[21] effective October 23, 2000.

(signed)

Robert deV. Frierson
Associate Secretary of the Board

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