

FEDERAL RESERVE SYSTEM

Banco Popular de Puerto Rico
Hato Rey, Puerto Rico

Order Approving the Acquisition of Branches

Banco Popular de Puerto Rico (“Banco Popular”), a state member bank, has applied under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. § 1828(c)) (“Bank Merger Act”) to acquire certain assets and assume certain liabilities of three branches of Banco Bilbao Vizcaya Argentaria Puerto Rico, San Juan, Puerto Rico (“Banco Bilbao”).¹

Notice of the proposal, affording interested persons an opportunity to submit comments, has been given in accordance with the Bank Merger Act and the Board's Rules of Procedure (12 C.F.R. 262.3(b)). As required by the Bank Merger Act, reports on the competitive effects of the merger were requested from the United States Attorney General and the other federal banking agencies. The time for filing comments has expired, and the Board has considered the application and all the facts of record in light of the factors set forth in the Bank Merger Act.

Banco Popular is a subsidiary of Popular, Inc., also in San Juan, and is the largest depository institution in Puerto Rico, controlling deposits of \$9.6 billion, representing 31.8 percent of the total deposits in depository

¹ The Banco Bilbao branches are located at 24 Munoz Rivera Street, Adjuntas; 8 Palmer Street, Ciales; and 17-4 de Julio Street, Orocovis, all in Puerto Rico. Immediately following consummation of the proposed transaction, Banco Popular would consolidate each Banco Bilbao branch with an existing Banco Popular branch that is within 600 feet of the acquired branch.

institutions in Puerto Rico ("Commonwealth deposits").² The Banco Bilbao branches that Banco Popular proposes to acquire control deposits of approximately \$49.8 million, representing less than 1 percent of Commonwealth deposits. On consummation, Banco Popular would remain the largest depository institution in Puerto Rico, controlling deposits of \$9.7 billion, representing 31.9 percent of Commonwealth deposits.

Competitive Considerations

The Bank Merger Act prohibits the Board from approving a proposal that would result in a monopoly or would be in furtherance of any attempt to monopolize the business of banking.³ The Bank Merger Act also prohibits the Board from approving a proposal that would substantially lessen competition or tend to create a monopoly in any relevant market, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effects of the transaction in meeting the convenience and needs of the community to be served.⁴

Banco Popular and the Banco Bilbao branches to be acquired compete directly in the San Juan and Ponce, Puerto Rico, banking markets ("San Juan banking market" and "Ponce banking market").⁵ The Board has

² Deposit and ranking data are as of June 30, 2000. In this context, depository institutions include commercial banks, savings banks, and savings associations.

³ 12 U.S.C. § 1828(c)(5)(A).

⁴ 12 U.S.C. § 1828(c)(5)(B).

⁵ The San Juan banking market is defined as the San Juan-Caguas-Aricense Consolidated Metropolitan Statistical Area and the municipalities of Aibonito, Barranquitas, Ciales, Jayuya, Lares, Maunabo, Orocovis, Quebradillas, Utuado,

reviewed carefully the competitive effects of the proposal in each market in light of the facts of record, including the number of competitors that would remain in the market, the relative share of the total deposits in depository institutions in the market ("market deposits") that Banco Popular would control,⁶ the concentration level of market deposits and the increase in this level as measured by the Herfindahl-Hirschman Index ("HHI") under the Department of Justice Merger Guidelines ("DOJ Guidelines"),⁷ and other characteristics of

and Vieques, all in Puerto Rico. The Ponce banking market is defined as the Ponce Metropolitan Statistical Area and the municipalities of Adjuntas, Arrojo, Coamo, Guanica, Guayama, Pantillas, Salinas, and Santa Isabel, all in Puerto Rico.

⁶ Unless otherwise noted, market share data are as of June 30, 2000, and are based on calculations in which the deposits of thrift institutions, which include savings banks and savings associations, are weighted at 50 percent. The Board has previously indicated that thrift institutions have become, or have the potential to become, significant competitors of commercial banks. See, e.g., Midwest Financial Group, 75 Federal Reserve Bulletin 386 (1989); National City Corporation, 70 Federal Reserve Bulletin 743 (1984). Thus, the Board regularly has included thrift deposits in the market share calculation on a 50-percent weighted basis. See, e.g., First Hawaiian, Inc., 77 Federal Reserve Bulletin 52 (1991).

⁷ Under the DOJ Guidelines, 49 Federal Register 26,823 (1984), a market is considered moderately concentrated if the post-merger HHI is between 1000 and 1800 and highly concentrated if the post-merger HHI is more than 1800. 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.

the markets. The transaction is consistent with the DOJ Guidelines and Board precedent in the San Juan and Ponce banking markets.

Banco Popular is the largest depository institution in the San Juan banking market, controlling deposits of approximately \$8.2 billion, representing 32.1 percent of market deposits. The Banco Bilbao branches to be acquired control deposits of approximately \$36.9 million, representing less than 1 percent of market deposits. On consummation of the proposal, Banco Popular would remain the largest depository institution in the San Juan banking market, controlling deposits of approximately \$8.2 billion, representing 32.2 percent of market deposits. Banco Bilbao would remain the fifth largest depository institution in the market, controlling deposits of \$2.2 billion, representing 8.5 percent of market deposits. The HHI would increase 7 points to 1695. Thirteen depository institutions, including Banco Bilbao, would compete in the market after consummation.

Banco Popular is the largest depository institution in the Ponce banking market, controlling deposits of approximately \$735.6 million, representing 43.1 percent of market deposits. The Banco Bilbao branch that Banco Popular proposes to acquire controls deposits of approximately \$12.9 million, representing less than 1 percent of market deposits. On consummation of the proposal, Banco Popular would remain the largest depository institution in the Ponce banking market, controlling deposits of approximately \$748.5 million, representing 43.9 percent of market deposits. Banco Bilbao would remain the second largest depository institution in the market, controlling deposits of \$241.7 million, representing 14.2 percent of market deposits. The HHI would increase 43 points to 2411. Twelve commercial banks, including Banco Bilbao, would compete in the market after consummation of the proposal. In addition, fourteen savings and credit union

cooperative societies ("cooperatives") compete in the Ponce banking market,⁸ controlling \$290.4 million in deposits.⁹

The Department of Justice has reviewed the proposal and advised the Board that consummation of the proposal is not likely to have a significantly adverse effect on competition in the San Juan or Ponce banking markets or in any other relevant banking market. The Puerto Rico Commissioner of Financial Institutions and the other federal banking agencies also have been afforded an opportunity to comment on the proposal and have not objected.

After carefully reviewing all the facts of record, and for the reasons discussed above, the Board concludes that consummation of the proposal is not likely to result in a significantly adverse effect on competition or on the concentration of banking resources in any relevant banking market and that competitive factors are consistent with approval of the proposal.

Other Factors

⁸ Cooperatives are Commonwealth-insured depository institutions unique to Puerto Rico. Although cooperatives are membership organizations, few impose membership restrictions, and they are authorized to provide a full range of products and services to nonmembers, including transactions accounts for personal and business purposes. For a detailed discussion of the activities of cooperatives, see BanPonce Corporation, 77 Federal Reserve Bulletin 43, 45 (1991); Statement by the Board of Governors of the Federal Reserve System Regarding the Application by Banco Santander, S.A., 82 Federal Reserve Bulletin 833, 834-835 (1996) ("Statement").

⁹ The Board previously has recognized and continues to believe that cooperatives are at least as significant as thrift institutions as competitors of commercial banks and should be weighted at 50 percent in the Ponce banking market. See Statement at 835 n.13. Deposit data for cooperatives are as of June 30, 2000.

In reviewing this proposal under the Bank Merger Act, the Board also has considered the financial resources and future prospects of the institutions involved. The Board has reviewed these factors in light of all the facts of record, including supervisory reports of examination assessing the financial resources of and information provided by Banco Popular. The Board notes that Banco Popular would remain well capitalized on consummation of the proposal. The Board also has carefully reviewed reports of examination and other material related to the management record and resources of Banco Popular. In light of all the facts of record, the Board concludes that the financial and managerial resources and future prospects of Banco Popular and Banco Bilbao are consistent with approval of this proposal. In addition, considerations related to the convenience and needs of the communities to be served, including the records of performance of the institutions involved under the Community Reinvestment Act ("CRA"), are consistent with approval.¹⁰

Conclusion

Based on the foregoing and the facts of record, the Board has determined that the application should be, and hereby is, approved. The Board's approval is specifically conditioned on compliance by Banco Popular with all commitments made in connection with the proposal. For purposes of this action, the commitments and conditions referred to in this order are deemed

¹⁰ 12 U.S.C. § 2901 *et seq.* Banco Popular received an "outstanding" rating at its most recent examination for CRA performance by the Federal Reserve Bank of New York ("Reserve Bank"), as of June 5, 2000. The Reserve Bank reviewed the general policy employed by Banco Popular in closing and consolidating branches in connection with its CRA performance examination of the bank and determined that the policy conformed to the Joint Interagency Policy Statement Regarding Branch Closings. See 64 Federal Register 34,844 (1999).

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 branches may not be consummated before the fifteenth calendar day after the effective date of this order, and the proposal may 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 the Reserve Bank, acting pursuant to delegated authority.

By order of the Board of Governors,¹¹ effective January 15, 2002.

(signed)

Robert deV. Frierson
Deputy Secretary of the Board

¹¹ Voting for this action: Chairman Greenspan, Vice Chairman Ferguson, and Governors Meyer, Gramlich, Bies, and Olson.