

FEDERAL RESERVE SYSTEM

S&T Bancorp, Inc.
Indiana, Pennsylvania

Order Approving Acquisition of Shares of a Bank Holding Company

S&T Bancorp, Inc. (“S&T”), a financial 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 up to 24.9 percent of the voting shares of Allegheny Valley Bancorp, Inc. (“AVB”), and thereby indirectly acquire an interest in AVB’s subsidiary bank, Allegheny Valley Bank of Pittsburgh (“Allegheny Bank”), both in Pittsburgh, Pennsylvania.¹

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (69 Federal Register 52,506 (2004)). 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.

S&T, with consolidated assets of \$3.0 billion, is the 20th largest banking organization in Pennsylvania, controlling total deposits of \$2.0 billion, which represents 1 percent of total deposits in banking organizations in the state (“state deposits”).² AVB, with consolidated assets of \$317 million, is the 97th largest banking organization in Pennsylvania, controlling \$264 million in deposits. If S&T were deemed to control AVB on consummation of the proposal, S&T would become

¹ S&T owns 4.95 percent of AVB’s voting shares. S&T proposes to acquire the additional voting shares in a negotiated purchase from a shareholder and through open market purchases.

² Asset data are as of June 30, 2004. Deposit and ranking data are also as of June 30, 2004, and reflect merger activity through November 18, 2004.

the 18th largest banking organization in Pennsylvania, controlling approximately \$2.2 billion in deposits, which would represent 1.2 percent of state deposits.

The Board received a comment from AVB objecting to the proposal on the grounds that the investment could create uncertainty about the future independence of AVB and Allegheny Bank or result in S&T acquiring control of AVB. The Board has considered carefully AVB's comment in light of the factors that the Board must consider under section 3 of the BHC Act.

The Board previously has stated that the acquisition of less than a controlling interest in a bank or bank holding company is not a normal acquisition for a bank holding company.³ However, the requirement in section 3(a)(3) of the BHC Act that the Board's approval be obtained before a bank holding company acquires more than 5 percent of the voting shares of a bank suggests that Congress contemplated the acquisition by bank holding companies of between 5 and 25 percent of the voting shares of banks.⁴ On this basis, the Board previously has approved the acquisition by a bank holding company of less than a controlling interest in a bank or bank holding company.⁵

S&T has stated that the acquisition is intended as a passive investment and that it does not propose to control or exercise a controlling influence over AVB or Allegheny Bank. S&T has agreed to abide by certain commitments previously

³ See, e.g., Brookline Bancorp, MHC, 86 Federal Reserve Bulletin 52 (2000) ("Brookline"); North Fork Bancorporation, Inc., 81 Federal Reserve Bulletin 734 (1995); First Piedmont Corp., 59 Federal Reserve Bulletin 456, 457 (1973).

⁴ See 12 U.S.C. § 1842(a)(3).

⁵ See, e.g., S&T Bancorp, Inc., 90 Federal Reserve Bulletin 82 (2004) (acquisition of up to 9.9 percent of the voting shares of a bank holding company); Brookline (acquisition of up to 9.9 percent of the voting shares of a bank holding company); GB Bancorporation, 83 Federal Reserve Bulletin 115 (1997) (acquisition of up to 24.9 percent of the voting shares of a bank).

relied on by the Board in determining that an investing bank holding company would not be able to exercise a controlling influence over another bank holding company or bank for purposes of the BHC Act.⁶ For example, S&T has committed not to exercise or attempt to exercise a controlling influence over the management or policies of AVB or any of its subsidiaries; not to seek or accept representation on the board of directors of AVB or any of its subsidiaries; and not to have any director, officer, employee, or agent interlocks with AVB or any of its subsidiaries. S&T also has committed not to attempt to influence the dividend policies, loan decisions, or operations of AVB or any of its subsidiaries. Moreover, the BHC Act prohibits S&T from acquiring additional shares of AVB or attempting to exercise a controlling influence over AVB without the Board's prior approval.⁷

The Board has adequate supervisory authority to monitor compliance by S&T with its commitments and has the ability to take enforcement action against

⁶ See, e.g., Emigrant Bancorp, Inc., 82 Federal Reserve Bulletin 555 (1996); First Community Bancshares, Inc., 77 Federal Reserve Bulletin 50 (1991). These commitments are set forth in the Appendix.

⁷ AVB contends that, despite S&T's commitments, S&T would nonetheless control AVB after consummation of the proposal because one major individual shareholder of S&T also owns 3 percent of the voting shares of AVB. The Board's rules provide for aggregation of shares held by officers or directors of S&T with the shares owned by S&T in determining S&T's ownership percentage of AVB. No officer or director of S&T owns any voting shares of AVB. In reaching this conclusion, the Board reviewed information provided by S&T regarding the current ownership of AVB's shares by officers and directors of S&T, and the ownership of S&T's shares by an individual who sits on one of its local advisory boards but is not an officer or director of S&T. Based on S&T's description of this individual's relationship with S&T and the limited functions of S&T's local advisory boards, the Board has concluded that this individual is not a controlling shareholder or advisory director of S&T for purposes of the Board's Regulation Y. The record does not support a finding that any shares of AVB owned by S&T shareholders should be attributed to S&T for purposes of determining control of AVB under the BHC Act.

S&T if it violates any of the commitments.⁸ The Board also has authority to initiate a control proceeding against S&T if facts presented later indicate that S&T or any of its subsidiaries or affiliates in fact controls AVB for purposes of the BHC Act.⁹

Based on these considerations and all other facts of record, the Board has concluded that S&T would not acquire control of, or have the ability to exercise a controlling influence over, AVB through the proposed acquisition of voting shares.

Financial, Managerial, and Supervisory Considerations

The Board also is required under section 3(c) of the BHC Act to consider the financial and managerial resources and future prospects of the companies and banks concerned and certain other supervisory factors. The Board has considered carefully these factors in light of all the facts of record. The Board has considered, among other things, information provided by S&T, confidential reports of examination and other supervisory information received from the primary federal supervisors of the organizations involved in the proposal, the Federal Reserve System's confidential supervisory information, publicly reported and other financial information, and the public comments submitted by AVB.

In evaluating financial factors in proposals under section 3 of the BHC Act by banking organizations, the Board reviews the financial condition of the organizations involved on both a parent-only and consolidated basis, as well as the financial condition of the subsidiary banks and significant nonbanking subsidiaries. In this evaluation, the Board considers a variety of areas, including capital adequacy, asset quality, and earnings performance. In assessing financial factors, the Board consistently has considered capital adequacy to be especially important. The Board also evaluates the effect of the transaction on the financial condition of the applicant

⁸ See 12 U.S.C. § 1818(b)(1).

⁹ See 12 U.S.C. § 1841(a)(2)(C).

and the target, including their capital position, asset quality, earnings prospects, and the impact of the proposed funding of the transaction.¹⁰

Based on its review of these factors, the Board finds that S&T has sufficient resources to effect the proposal. S&T, AVB, and their subsidiary banks are well capitalized and would remain so on consummation of the proposal. The proposed acquisition of shares would be funded from S&T's general corporate resources.

The Board also has considered the managerial resources of S&T and AVB, particularly in light of the supervisory experience of the other relevant banking supervisory agencies with the organizations and their records of compliance with applicable banking laws. The Board has reviewed assessments by the relevant federal and state banking supervisory agencies of the organizations' management, the risk management systems of S&T, and the operations of AVB and Allegheny Bank. S&T, AVB, and their subsidiary depository institutions are considered well managed overall.

AVB contends that S&T's investment would cause confusion among AVB's shareholders, customers, and employees about the continued independence of AVB; compromise AVB's ability to recruit executive leadership and retain other employees; and adversely affect the price of AVB's shares.¹¹ The Board believes

¹⁰ As previously noted, the current proposal provides that S&T would acquire only up to 24.9 percent of AVB's voting shares and would not be considered to control AVB. Under these circumstances, the financial statements of S&T and AVB would not be consolidated.

¹¹ The Board is limited under the BHC Act to the consideration of factors specified in the Act. See Western Bancshares, Inc. v. Board of Governors, 480 F.2d 749 (10th Cir. 1973). The potential effect of a proposal on the share price of the parties to the proposed transaction is not among the limited statutory factors that the Board is authorized to consider when reviewing an application under the BHC Act. Id.; see also S&T Bancorp, Inc., 90 Federal Reserve Bulletin 79, 81 n.16 (2004).

that the commitments made by S&T to maintain its investment as a passive investment and not to exercise a controlling influence over AVB reduce the potential adverse effects of the proposal. As noted above, S&T has committed that it will not attempt to influence the operations, activities, or the dividend, loan, or credit policies of AVB. No evidence has been presented to show that the purchase of shares of AVB on the open market by S&T would adversely affect the financial condition of AVB or S&T.

Based on all the facts of record, the Board has concluded that the financial and managerial resources and the future prospects of S&T, AVB, and their subsidiaries are consistent with approval of this application, as are the other supervisory factors the Board must consider under section 3 of the BHC Act.

Competitive and Convenience and Needs Considerations

In considering an application under section 3 of the BHC Act, the Board is required to evaluate a number of factors, including the competitive effects of the proposal. Section 3 of the BHC 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 in any relevant banking market. It also prohibits the Board from approving a proposed bank acquisition that would substantially lessen competition in any relevant banking market unless the anticompetitive effects of the proposal are clearly outweighed in the public interest by its probable effects in meeting the convenience and needs of the community to be served.¹²

¹² See 12 U.S.C. § 1842(c)(1).

The Board previously has noted that one company need not acquire control of another company to lessen competition between them substantially.¹³ The Board has found that noncontrolling interests in directly competing depository institutions may raise serious questions under the BHC Act and has concluded that the specific facts of each case will determine whether the minority investment in a company would be anticompetitive.¹⁴

S&T and AVB compete directly in the Pittsburgh, Pennsylvania banking market (“Pittsburgh market”).¹⁵ AVB asserts that S&T’s ownership of up to 24.9 percent of AVB’s voting shares would provide S&T with the ability to exert control over AVB and Allegheny Bank, with a resulting adverse effect on competition. The Board concludes that the commitments made by S&T to maintain its investment as a passive investment and not to exercise a controlling influence over AVB reduce the potential adverse competitive effects of the proposal. Moreover, the Board notes that if S&T and AVB were viewed as a combined organization, consummation of the proposal would be consistent with Board

¹³ See, e.g., SunTrust Banks, Inc., 76 Federal Reserve Bulletin 542 (1990); First State Corp., 76 Federal Reserve Bulletin 376, 379 (1990); Sun Banks, Inc., 71 Federal Reserve Bulletin 243 (1985) (“Sun Banks”).

¹⁴ See, e.g., BOK Financial Corp., 81 Federal Reserve Bulletin 1052, 1053-54 (1995); Mansura Bancshares, Inc., 79 Federal Reserve Bulletin 37, 38 (1993); Sun Banks at 244.

¹⁵ The Pittsburgh market is defined as Allegheny County; the townships of Gilpin, Kiskiminetas, Parks, and South Buffalo in Armstrong County; Beaver County; the townships of Adams, Buffalo, Clinton, Cranberry, Forward, Jackson, Jefferson, Lancaster, Middlesex, Muddy Creek, Penn, and Winfield in Butler County; the townships of Bullskin, Jefferson, Lower Tyrone, Perry, Salt Lick, Upper Tyrone, and Washington in Fayette County; the townships of Burrell, Conemaugh, and West Wheatfield in Indiana County; the townships of Little Beaver, New Beaver, Perry, and Wayne in Lawrence County; Washington County; and Westmoreland County, excluding St. Clair township, all in Pennsylvania.

precedent and the Department of Justice Merger Guidelines¹⁶ in the Pittsburgh market. The market would remain moderately concentrated as measured by the HHI, with only a small increase in concentration and numerous competitors would remain in the market.¹⁷

The Department of Justice also has reviewed the proposal and has advised the Board that it does not believe that the acquisition would likely have a

¹⁶ Under the revised Department of Justice Merger Guidelines, 49 Federal Register 26,823 (June 29, 1984), a market in which the post-merger Herfindahl-Hirschman Index (“HHI”) is between 1000 and 1800 is considered moderately 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 an increase in the HHI when screening bank mergers and acquisitions for anticompetitive effects implicitly recognize the competitive effects of limited-purpose and other nondepository financial entities.

¹⁷ S&T is the ninth largest depository institution in the market, controlling \$664.2 million in deposits, which represents 1.3 percent of the total deposits in depository institutions in the market (“market deposits”). AVB is the 19th largest depository institution in the market, controlling \$249 million in deposits, which represents less than 1 percent of market deposits. If considered a combined banking organization on consummation of the proposal, S&T and AVB would be the eighth largest depository institution in the Pittsburgh market, controlling \$913.2 million in deposits, which would represent 1.9 percent of market deposits. The HHI for the Pittsburgh market would increase 2 points to 1586, and numerous competitors would remain in the market. Market deposit data are as of June 30, 2003, and reflect mergers and acquisitions through August 3, 2004.

In this context, depository institutions include commercial banks, savings banks, and savings associations. Market share data are based on calculations that include the deposits of thrift institutions 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, e.g., Midwest Financial Group, 75 Federal Reserve Bulletin 386, 387 (1989); National City Corporation, 70 Federal Reserve Bulletin 743, 744 (1984). Thus, the Board regularly has 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, 55 (1991).

significantly adverse effect on competition in any relevant banking market. The appropriate banking agencies have been afforded an opportunity to comment and have not objected to the proposal.

Accordingly, in light of all the facts of record, the Board concludes that consummation of the proposal would not have a significant adverse effect on competition or on the concentration of resources in any relevant banking market and that competitive considerations are consistent with approval of the proposal.

In addition, considerations relating 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”),¹⁸ are consistent with approval of the application. S&T’s lead subsidiary bank, S&T Bank, Indiana, Pennsylvania, and Allegheny Bank each received “satisfactory” ratings at their most recent evaluations for CRA performance by the Federal Deposit Insurance Corporation, as of April 1, 2002, and October 25, 1999, respectively.

Conclusion

Based on the foregoing and all other facts of record, the Board has determined that the application should be, and hereby is, approved. In reaching this conclusion, the Board has considered all the facts of record in light of the factors that it is required to consider under the BHC Act and other applicable statutes. The Board’s approval is specifically conditioned on compliance by S&T with the condition imposed in this order and all the commitments made to the Board in connection with the application, including the commitments discussed in this order. The condition and commitments 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.

¹⁸ 12 U.S.C. § 2901 et seq.

The acquisition of AVB's voting shares shall not be consummated before the fifteenth calendar day after 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 Board or by the Federal Reserve Bank of Cleveland, acting pursuant to delegated authority.

By order of the Board of Governors,¹⁹ effective December 6, 2004.

(signed)

Robert deV. Frierson
Deputy Secretary of the Board

¹⁹ Voting for this action: Chairman Greenspan, Vice Chairman Ferguson, and Governors Gramlich, Bies, Olson, Bernanke, and Kohn.

APPENDIX

As part of this proposal, S&T Bancorp, Inc. (“S&T”), Indiana, Pennsylvania, commits that S&T will not, without the prior approval of the Federal Reserve, directly or indirectly:

- (1) Exercise or attempt to exercise a controlling influence over the management or policies of Allegheny Valley Bancorp, Inc. (“AVB”) or any of its subsidiaries;
- (2) Seek or accept representation on the board of directors of AVB or any of its subsidiaries;
- (3) Have or seek to have any employee or representative serve as an officer, agent, or employee of AVB or any of its subsidiaries;
- (4) Take any action that would cause AVB or any of its subsidiaries to become a subsidiary of S&T, or any of S&T’s subsidiaries;
- (5) Acquire or retain shares that would cause the combined interests of S&T and any of S&T’s subsidiaries and their officers, directors, and affiliates to equal or exceed 25 percent of the outstanding voting shares of AVB or any of its subsidiaries;
- (6) Propose a director or slate of directors in opposition to a nominee or slate of nominees proposed by the management or the board of directors of AVB or any of its subsidiaries;
- (7) Solicit or participate in soliciting proxies with respect to any matter presented to the shareholders of AVB or any of its subsidiaries;
- (8) Attempt to influence the dividend policies or practices; the investment, loan, or credit decisions or policies; the pricing of services; personnel decisions; operations activities (including the location of any offices or branches or their hours of operation, etc.); or any similar activities or decisions of AVB or any of its subsidiaries;
- (9) Dispose or threaten to dispose of shares of AVB or any of its subsidiaries as a condition of specific action or nonaction by AVB or any of its subsidiaries; or
- (10) Enter into any banking or non-banking transactions with AVB or any of

its subsidiaries, except that S&T may establish and maintain deposit accounts with any depository institution subsidiary of AVB; provided that the aggregate balance of all such accounts does not exceed \$500,000 and that the accounts are maintained on substantially the same terms as those prevailing for comparable accounts of persons unaffiliated with AVB or any of its subsidiaries.