

FEDERAL RESERVE SYSTEM

Webster Financial Corporation
Waterbury, Connecticut

Order Approving the Acquisition of a Bank Holding Company

Webster Financial Corporation (“Webster”), a financial holding company within the meaning of the Bank Holding Company Act (“BHC Act”), has requested the Board’s approval pursuant to section 3 of the BHC Act¹ to acquire Eastern Wisconsin Bancshares, Inc. (“Eastern”)² and its subsidiary bank, State Bank of Howards Grove, both in Howards Grove, Wisconsin (“State Bank”).³

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (69 Federal Register 63,385 (2004)). The

¹ 12 U.S.C. § 1842.

² Webster also has requested the Board’s approval under section 3 of the BHC Act to exercise an option to purchase up to 19.9 percent of Eastern’s common stock on the occurrence of certain circumstances. The option would terminate on consummation of Webster’s application to acquire Eastern. In addition, Webster has requested the Board’s approval under section 3 of the BHC Act to purchase up to 19.9 percent of Eastern’s common stock before consummation if the Board approves the proposal and the purchase is necessary to maintain State Bank as a well-capitalized institution.

³ State Bank operates one full-service branch in Howards Grove and a loan production office in Beaver Dam, Wisconsin. State Bank offers health savings accounts (“HSA”) nationwide through its division, HSA Bank. HSAs, authorized by the Medicare Prescription Drug Improvement and Modernization Act of 2003, are tax-exempt savings accounts earmarked for medical expenses. After consummation of this proposal, Webster proposes to merge State Bank into its subsidiary bank, Webster Bank, National Association (“Webster Bank”), also in Waterbury; operate HSA Bank as a division of Webster Bank; and sell the remaining operations of State Bank, including its two offices in Wisconsin. Webster has represented that it intends to operate the State Bank offices until Webster sells them to another financial institution.

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 the BHC Act.

Webster, with total consolidated assets of approximately \$17.8 billion, is the 48th largest depository organization in the United States,⁴ controlling deposits of approximately \$10.6 billion.⁵ Webster has one subsidiary depository institution, Webster Bank, with branches in Connecticut, Massachusetts, New York, and Rhode Island. Eastern, with total consolidated assets of approximately \$164.9 million, is the 103rd largest depository institution in Wisconsin, controlling deposits of \$138 million, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the state. On consummation of the proposal, Webster would remain the 48th largest depository organization in the United States, with total consolidated assets of approximately \$18 billion, and would control deposits of approximately \$10.7 billion, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the United States.

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 such bank holding company if certain conditions

⁴ Asset and national ranking data are as of September 30, 2004, and reflect consolidations through that date.

⁵ Deposit data are as of June 30, 2004, and reflect the total of the deposits reported by each organization's insured depository institutions in their Consolidated Reports of Condition and Income or Thrift Financial Reports for June 30, 2004. In this context, insured depository institutions include commercial banks, savings banks, and savings associations.

are met. For purposes of the BHC Act, the home state of Webster is Connecticut,⁶ and Eastern's subsidiary bank is located in Wisconsin.⁷

Based on a review of the facts of record, including a review of relevant state statutes, the Board finds that all conditions for an interstate acquisition enumerated in section 3(d) of the BHC Act are met in this case.⁸ In light 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 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. The BHC Act also prohibits the Board from approving a proposed bank acquisition that would substantially lessen competition in any relevant banking market, unless the Board finds that the anticompetitive effects of the proposal clearly are outweighed

⁶ A bank holding company's home state is the state in which the total deposits of all subsidiary banks of the company were the largest on July 1, 1966, or the date on which the company became a bank holding company, whichever is later. 12 U.S.C. § 1841(o)(4)(C).

⁷ For purposes of section 3(d), the Board considers a bank to be located in the states in which the bank is chartered or headquartered or operates a branch. 12 U.S.C. §§ 1841(o)(4)-(7) and 1842(d)(1)(A) and (d)(2)(B).

⁸ 12 U.S.C. §§ 1842(d)(1)(A)&(B), 1842(d)(2)(A)&(B). Webster is well capitalized and well managed, as defined by applicable law. State Bank has been in existence and operated for the minimum period of time required by applicable state law (five years). Wis. Stat. Ann. § 221.0901. On consummation of the proposal, Webster would control less than 10 percent of the total amount of deposits of insured depository institutions in the United States and less than 30 percent of the total amount of deposits of insured depository institutions in Wisconsin. Wis. Stat. Ann. § 221.0901. All other requirements under section 3(d) of the BHC Act also would be met on consummation of the proposal.

in the public interest by the probable effect of the proposal in meeting the convenience and needs of the community to be served.⁹

Webster and Eastern do not compete directly in any relevant banking market. Based on all the facts of record, the Board has concluded that consummation of the proposal would have no significant adverse effect on competition or on the concentration of banking resources in any relevant banking market and that competitive factors are consistent with approval.

Financial, Managerial, and Supervisory Considerations

Section 3 of the BHC Act also requires the Board to consider the financial and managerial resources and future prospects of companies and depository institutions involved in the proposal and certain other supervisory factors. The Board has carefully considered these factors in light of all the facts of record, including confidential reports of examination, other confidential supervisory information from the federal and state banking supervisors of the organizations involved, publicly reported and other financial information, public comments received on the proposal,¹⁰ and information provided by Webster.

In evaluating financial factors in expansion proposals 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

⁹ 12 U.S.C. § 1842(c)(1).

¹⁰ A commenter asserted generally that Webster's entry into the HSA business raises regulatory compliance issues and warrants an extensive compliance review. State Bank, a state member bank, operates under the supervision of the Federal Reserve System and the Wisconsin Department of Financial Institutions. Neither supervisor has found consumer compliance deficiencies related to its HSA Bank operations. Webster Bank stated that it will retain substantially all of HSA Bank's employees, including its manager, after consummation of the proposed merger with State Bank, and the HSA operations will be subject to review by the Office of the Comptroller of the Currency ("OCC"), Webster Bank's primary federal supervisor.

condition of the subsidiary depository institutions and significant nonbanking operations. 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 financial condition of the combined organization on consummation, including its capital position, asset quality, and earnings prospects, and the impact of the proposed funding of the transaction.

Based on its review of these factors, the Board finds Webster to have sufficient financial resources to effect the proposal. Webster and Webster Bank currently are well capitalized and would remain so on consummation of the proposal. The proposed transaction is structured primarily as a cash transaction funded from Webster's existing resources.

The Board also has considered the managerial resources of the organizations involved, including the proposed combined organization. The Board has reviewed the examination records of Webster, Eastern, and their subsidiary depository institutions, including assessments of their management, risk management systems, and operations.¹¹ In addition, the Board has considered its supervisory experiences and those of the other relevant banking agencies with the organizations and their records of compliance with applicable banking law. Webster, Eastern, and their subsidiary depository institutions are considered well managed. In addition, the Board also has considered Webster's plans for

¹¹ The commenter also cited a 2002 press report of a lawsuit filed against Webster Bank concerning allegations by a teller that the bank's branch employees were required to work overtime without compensation in 2000 and 2001. The press report noted that efforts would be made to certify the litigation as a class action suit. Webster Bank stated that the teller's suit was settled in March 2003 and that no class action suit was certified. Moreover, the Board does not have jurisdiction to determine compliance with state or federal employment laws.

implementing the proposal, including its proposed management after consummation.

Based on all the facts of record, including a review of the comments received, the Board concludes that considerations relating to the financial and managerial resources and future prospects of the organizations involved in the proposal are consistent with approval, as are the other supervisory factors under the BHC Act.

Convenience and Needs and CRA Performance Considerations

In acting on this proposal, the Board also must consider the effects of the proposal on the convenience and needs of the communities to be served and take into account the records of the relevant insured depository institutions under the Community Reinvestment Act (“CRA”).¹² The CRA requires the federal financial supervisory agencies to encourage financial institutions to help meet the credit needs of the local communities in which they operate, consistent with their safe and sound operation, and requires the appropriate federal financial supervisory agency to take into account a depository institution’s record of meeting the credit needs of its entire community, including low- and moderate-income (“LMI”) neighborhoods, in evaluating the depository institution’s expansionary proposals.¹³

The Board has considered carefully the convenience and needs factor and the CRA performance records of the subsidiary depository institutions of Webster and Eastern in light of all the facts of record, including public comments received on the proposal.¹⁴ The commenter alleged, based on data reported under

¹² 12 U.S.C. § 2901 et seq.

¹³ 12 U.S.C. § 2903.

¹⁴ The commenter asserted that Webster should be required to have a CRA plan that takes into account its proposed acquisition of State Bank’s HSA Bank and that Webster should be evaluated under the CRA on a nationwide basis after consummation of the proposal. The adequacy of Webster’s CRA-related efforts in the future and the scope of its CRA evaluation after consummation of this proposal

the Home Mortgage Disclosure Act (“HMDA”),¹⁵ that Webster disproportionately denied applications for loans by minorities and that its plans to divest State Bank’s offices in Wisconsin would disrupt services to retail customers.¹⁶

A. CRA Performance Evaluations

As provided in the CRA, the Board has evaluated the convenience and needs factor in light of evaluations by the appropriate federal supervisors of the CRA performance records of the relevant insured depository institutions. An institution’s most recent CRA performance evaluation is a particularly important consideration in the applications process because it represents a detailed, on-site evaluation of the institution’s overall record of performance under the CRA by its appropriate federal supervisor.¹⁷

Webster Bank received an “outstanding” rating at the most recent evaluation of its CRA performance by the Office of Thrift Supervision (“OTS”), as of January 14, 2002 (“2002 Evaluation”).¹⁸ State Bank received a “satisfactory” rating at the most recent evaluation of its CRA performance by the Federal Reserve Bank of Chicago, as of May 12, 2003.

are matters within the jurisdiction of the OCC, Webster Bank’s primary supervisor under the CRA.

¹⁵ 12 U.S.C. § 2801 *et seq.*

¹⁶ The commenter criticized Webster’s relationships with unaffiliated car-title-lending companies and other providers of nontraditional financial services. Webster Bank responded that it has entered into lending relationships with providers of nontraditional financial products, but it does not play any role in the lending or business practices or credit review processes of those providers.

¹⁷ See Interagency Questions and Answers Regarding Community Reinvestment, 66 Federal Register 36,620 and 36,639 (2001).

¹⁸ At the time, Webster Bank was a savings bank supervised by the OTS. It converted to a national bank charter in April 2004.

B. CRA Performance of Webster Bank

In the 2002 Evaluation, Webster Bank received an “outstanding” rating under the lending, investment, and service tests.¹⁹ Examiners stated that the “outstanding” rating under the lending test was based on the bank’s high volume and percentage of residential mortgage loans to LMI individuals and on its high volume of loans to small businesses.²⁰ They also determined that Webster Bank’s community development lending performance enhanced its overall lending performance.

Examiners reported that the bank made a higher percentage of its loans reported under HMDA to LMI individuals in its assessment areas in 2000 than the percentage for the aggregate of lenders (“aggregate lenders”).²¹ They noted that the bank used flexible mortgage loan products and innovative deposit products to serve the assessment areas’ credit needs.

Since the 2002 Evaluation, Webster Bank’s HMDA-reportable lending in LMI geographies continued to strengthen in 2003. The bank increased its home mortgage loans in LMI census tracts from more than 570 loan originations totaling \$60.9 million in 2002, to more than 1,050 loan originations totaling \$105.4 million in 2003. Webster Bank also has continued to offer a variety of affordable housing loans. Webster Bank offers Fannie Mae programs

¹⁹ The evaluation period was from November 1, 1999, to December 31, 2001. During this period, Webster Bank had four assessment areas. The bank’s Hartford assessment area and the assessment area for Bridgeport, New Haven, Waterbury, and Danbury, all in Connecticut, received full-scope reviews.

²⁰ Small businesses are businesses with gross annual revenues of \$1 million or less. Small loans to businesses include loans with original amounts of \$1 million or less that are either secured by nonfarm, nonresidential properties or classified as commercial and industrial loans.

²¹ The lending data of the aggregate lenders represent the cumulative lending for all financial institutions that have reported data in a particular area.

that feature no or minimal down-payment requirements or that allow applicants with less than perfect credit records to receive adjustable rate loans that reward timely payments over a specified period with limited interest rate reductions. Webster Bank also offers loans sponsored by the Federal Housing Administration. In October 2004, Webster Bank announced a new affordable mortgage product, the Home Ownership Possibilities for Everyone (“HOPE”) mortgage loan that features nontraditional underwriting standards, including the use of innovative credit scoring methods and minimal down-payment requirements. After attending homebuyer education classes, borrowers are eligible for reduced interest rates and are not required to purchase private mortgage insurance under the HOPE mortgage program.

Examiners reported that Webster Bank had the highest market share of small loans to businesses in its assessment areas of any of the aggregate lenders, as reported by the Small Business Loan Aggregate Report of the Federal Financial Institutions Examination Council. Moreover, examiners noted that 77 percent of Webster Bank’s small loans to businesses were in amounts of \$100,000 or less, which demonstrated an excellent responsiveness to assessment-area credit needs. Since the 2002 Evaluation, Webster Bank reported that it made \$10.5 million in small loans to businesses in its assessment areas.

In the 2002 Evaluation, Webster Bank originated community development loans totaling almost \$12 million. Examiners found that these loans assisted economic development throughout all of its assessment areas and provided more than 200 units of housing to LMI residents. Examiners also noted that Webster Bank formed a business unit dedicated to community development lending during the evaluation period.

Webster Bank stated that its community development lending has increased since the 2002 Evaluation. From January 2002 through September 2004,

Webster Bank originated seven major community development loans totaling \$35.1 million.

In the 2002 Evaluation, examiners noted that Webster Bank had an excellent level of qualified community development investments and grants, particularly those that were not routinely provided by private investors. They commended the bank for acting as a leader with respect to its community development investments. During the evaluation period, Webster Bank made \$22 million in investments. In 2002 and 2003, Webster Bank made more than \$13.7 million in community development investments and grants.

Examiners reported that Webster Bank's delivery systems were readily accessible to all portions of the assessment areas and that 20 percent of its offices were in LMI geographies. They further commended Webster Bank's senior management for its leadership in providing community development services.

C. HMDA Data and Fair Lending

The Board also has carefully considered the lending record of Webster in light of comments received on the HMDA data reported by Webster Bank in 2002 and 2003.²² The commenter alleged that Webster's lending evidenced systematic disparities by disproportionately denying applications for HMDA-reportable loans to minorities. Webster Bank's denial disparity ratios²³ for African-American and Hispanic applicants in 2002 and 2003 for the markets

²² The Board analyzed 2002 and 2003 HMDA data reported by Webster Bank in specific Metropolitan Statistical Areas and statewide in Connecticut. During that period, Webster Bank operated only in Connecticut. Webster Bank acquired its Massachusetts and Rhode Island operations in May 2004 through its acquisition of First Federal Savings Bank of America, Swansea, Massachusetts, and the bank opened its New York branches in 2004.

²³ The denial disparity ratio equals the denial rate for a particular racial category (for example, African-American) divided by the denial rate for whites.

reviewed were comparable to, or were less favorable than, the ratios for the aggregate lenders during the same time period.

Although the HMDA data may reflect certain disparities in the rates of loan applications, originations, and denials among members of different racial groups and persons at different income levels in certain local areas, the HMDA data generally do not indicate that Webster excluded any race or income segment of the population or geographic areas on a prohibited basis. The Board nevertheless is concerned when the record of an institution indicates disparities in lending and believes that all banks are obligated to ensure that their lending practices are based on criteria that ensure not only safe and sound lending, but also equal access to credit by creditworthy applicants regardless of race or income level. The Board recognizes, however, that HMDA data alone provide an incomplete measure of an institution's lending in its community because these data cover only a few categories of housing-related lending and provide only limited information about covered loans.²⁴ HMDA data, therefore, have limitations that make them an inadequate basis, absent other information, for concluding that an institution has not assisted adequately in meeting its community credit needs or has engaged in illegal lending discrimination.

Because of the limitations of HMDA data, the Board has considered these data carefully in light of other information, including examination reports that provide on-site evaluations of compliance with fair lending laws by the subsidiary depository and lending institutions of Webster. Examiners identified no violations of the antidiscrimination laws and regulations in the 2002 Evaluation and no substantive fair lending issues or concerns in Webster Bank's consumer compliance examinations.

²⁴ The data, for example, do not account for the possibility that an institution's outreach efforts may attract a larger proportion of marginally qualified applicants than other institutions attract and do not provide a basis for an independent assessment of whether an applicant who was denied credit was, in fact, creditworthy. Credit history problems and excessive debt levels relative to income (reasons most frequently cited for a credit denial) are not available from HMDA data.

Examiners also noted that management implemented adequate fair lending policies and procedures, training programs, and internal reviews. After reviewing Webster Bank's advertisements and application files and holding discussions with management and staff, examiners concluded that applications were solicited from all segments of the community.

The record also indicates that Webster has taken various measures to help ensure compliance with fair lending laws.²⁵ Webster has instituted corporate-wide policies and procedures to help ensure compliance with all fair lending and other consumer protection laws and regulations. Webster has adopted a corporate Fair Lending Policy, enhanced fair-lending compliance training at all organization levels, and initiated the process of reviewing and updating the fair lending procedures of its various business lines. Webster Bank's Compliance Unit monitors the internal controls applicable to the wholesale, retail, and consumer lending operations and verifies that the internal controls system identifies fair-lending compliance risks or

²⁵ The commenter expressed general concerns about Webster Bank's safeguards against predatory lending. Webster Bank has arrangements to refer subprime applicants to two third-party subprime mortgage lenders. According to Webster, the purpose of each arrangement is to provide applicants with an array of mortgage loan options after the bank has determined that they do not qualify for a loan Webster offers. Applicants are informed of these mortgage loan alternatives only after their loan applications have been reviewed under a second-review process at Webster Bank. Under an arrangement with one subprime lender, Webster Bank refers potential candidates to the lender. Under an agreement with the other subprime lender, Webster Bank originates the loan only after the subprime lender makes a creditworthiness determination and provides Webster Bank with a written commitment to purchase the loan immediately. Webster Bank has represented that it reviews and approves the lender's underwriting criteria and the terms and features of these loans before origination to ensure that there are no predatory lending practices. The OCC, as Webster Bank's primary supervisor, will examine Webster Bank's compliance with applicable statutes and regulations. Furthermore, the Board previously has noted that subprime lending is a permissible activity that provides needed credit to consumers who have difficulty meeting conventional underwriting criteria. See, e.g., Royal Bank of Canada, 88 Federal Reserve Bulletin 385, 388 (2002).

exceptions. The Compliance Unit also uses quality control testing to confirm that the system of internal controls in place is functioning properly at the transactional level. Webster Bank states that the fair-lending compliance functions report to the CRA Officer, who is responsible for coordinating and reviewing fair lending compliance at the Bank. Webster Bank's Internal Audit Department regularly reviews the lending activities to assess compliance with consumer protection laws and regulations. In addition, Webster Bank reports that it provides compliance training to bank employees.

The Board also has considered the HMDA data in light of other information, including the CRA performance records of the subsidiary depository institutions of Webster. These records demonstrate that Webster is active in helping to meet the credit needs of its entire community.²⁶

D. Branch Issues

The commenter also expressed concern about the effect on the convenience and needs of State Bank's communities from Webster's plan to divest the acquired branch and loan production office in Wisconsin, asserting that this plan would be disruptive to retail customers of the bank. Webster represented it is taking the following steps to provide continuity in banking services to the affected communities: retaining senior management of State Bank for a period of time after Webster's acquisition of Eastern, planning to sell State Bank's local operations and facilities as a single unit, and marketing this sale primarily to local banking organizations. In

²⁶ The commenter also expressed concern about Webster Bank's alleged involvement in mortgage lending at high rates and the sufficiency of the bank's safeguards against predatory lending practices. The commenter cited a 2001 press report of a lawsuit by homeowners in a moderate-income housing development in Connecticut. Webster Bank became involved in the lawsuit when it acquired another bank. In 2001, the Connecticut Attorney General's Office announced a settlement with an acknowledgement that Webster Bank played a major role in resolving the predecessor bank's litigation.

addition, Webster hopes to consummate the sale of State Bank's community banking operations as soon as possible after consummating the acquisition.

E. Conclusion on Convenience and Needs and CRA Performance

The Board has carefully considered all the facts of record, including reports of examination of the CRA records of the institutions involved, information provided by Webster and Eastern, comments on the proposal, and confidential supervisory information. Based on a review of the entire record, and for the reasons discussed above, the Board concludes that considerations relating to the convenience and needs factor and the CRA performance records of the relevant depository institutions 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. In reaching this conclusion, the Board has considered all the facts of record in light of the factors it is required to consider under the BHC Act and other applicable statutes.²⁷ The Board's approval is specifically conditioned on compliance by

²⁷ The commenter requested that the Board hold a public hearing or meeting on the proposal. Section 3 of the BHC Act does not require the Board to hold a public hearing on an application unless the appropriate supervisory authority for any of the banks to be acquired makes a timely written recommendation of denial of the application. The Board has not received such a recommendation from any supervisory authority. Under its rules, the Board also may, in its discretion, hold a public meeting or hearing on an application to acquire a bank if a meeting or hearing is necessary or appropriate to clarify factual issues related to the application and to provide an opportunity for testimony. 12 C.F.R. 225.16(e). The Board has considered carefully the commenter's request in light of all the facts of record. As noted, the public has had ample opportunity to submit comments on the proposal and, in fact, the commenter has submitted written comments that the Board has considered carefully in acting on the proposal. The commenter's request fails to demonstrate why its written comments do not present its views adequately or why a meeting or hearing otherwise would be necessary or appropriate. The request also fails to identify disputed issues of fact that are material to the Board's decision that would be clarified by a public hearing or

Webster with all the conditions imposed in this order and the commitments made to the Board in connection with this proposal, and receipt of all other regulatory approvals. For purposes of this action, the conditions and these 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.

The acquisition 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 Boston, acting pursuant to delegated authority.

By order of the Board of Governors,²⁸ effective February 4, 2005.

signed

Robert deV. Frierson
Deputy Secretary of the Board

meeting. For these reasons, and based on all the facts of record, the Board has determined that a public hearing or meeting is not required or warranted in this case. Accordingly, the request for a public hearing or meeting on the proposal is denied.

²⁸ Voting for this action: Chairman Greenspan, Vice Chairman Ferguson, and Governors Gramlich, Bies, Olson, Bernanke, and Kohn.