



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

SCOTT G. ALVAREZ
GENERAL COUNSEL

January 26, 2017

Lowell W. Harrison, Esq.
Fenimore, Kay, Harrison & Ford, LLP
812 San Antonio Street, Suite 600
Austin, Texas 78701

Dear Mr. Harrison:

This is in response to your letter, dated January 18, 2017, and received on January 19, to the Federal Reserve Bank of Dallas requesting a waiver from an application requirement under the Bank Holding Company Act of 1956, as amended (“BHC Act”),¹ for AIM Bancshares, Inc. (“AIM”), Levelland, Texas, a bank holding company, to acquire High Plains Bancshares, Inc. (“HPB”), a bank holding company, and thereby indirectly acquire its wholly-owned subsidiary state nonmember bank, Muleshoe State Bank (“Muleshoe Bank”), both of Muleshoe, Texas.

The purpose of the proposed transaction is to facilitate the merger of Muleshoe Bank with and into AIM’s wholly-owned subsidiary state nonmember bank, AimBank, Littlefield, Texas. The transaction would occur as follows: (1) AIM Acquisition Corporation, a wholly-owned subsidiary of AIM formed solely for the purpose of facilitating the transaction, would merge with and into HPB, with HPB as the surviving entity; (2) HPB would merge with and into AIM, with AIM as the surviving entity; and (3) Muleshoe Bank would then merge with and into AimBank, with AimBank as the surviving entity (“Bank Merger”). You have indicated that Muleshoe Bank would exist as a wholly-owned subsidiary of AIM for only a moment in time and that AIM would not operate Muleshoe Bank as a separate entity.

Section 3 of the BHC Act and the Board’s Regulation Y require the approval of the Board before the merger or consolidation of bank holding companies and before a bank holding company may acquire more than 5 percent of the shares of a bank.² Through the transaction described above, AIM would merge with HPB and indirectly

¹ 12 U.S.C. § 1841 *et seq.*

² 12 U.S.C. § 1842(a); 12 CFR 225.11.

acquire Muleshoe Bank. Accordingly, AIM would be required to obtain the Board's approval under section 3 of the BHC Act and Regulation Y before merging with HPB.

In certain circumstances, however, in order to avoid duplication of regulatory review by federal banking regulators, the Board's rules provide that a bank holding company seeking to merge with another bank holding company need not obtain the Board's prior approval. Specifically, section 225.12(d)(2) of the Board's Regulation Y provides that a bank holding company need not receive the Board's approval if the transaction is subject to review by a federal banking agency under section 18(c) of the Federal Deposit Insurance Act ("the Bank Merger Act"),³ and meets certain other criteria.⁴ Your proposal meets all of the applicable criteria, and AIM has provided all necessary information.

The Bank Merger requires the prior approval of the Federal Deposit Insurance Corporation ("FDIC") under the Bank Merger Act.⁵ In acting on the merger proposal, the FDIC must consider the impact the acquisition would have on competition, the financial and managerial resources and future prospects of the combined organization, the convenience and needs of the communities served by Muleshoe Bank and AimBank, the institutions' records of performance under the Community Reinvestment Act, the institutions' effectiveness in combating money laundering activities, and risks to the stability of the United States banking or financial system.⁶ These criteria are substantially similar to the criteria the Board would consider under section 3 of the BHC Act.⁷

Additionally, AIM would acquire control of Muleshoe Bank only for the short time necessary to complete the merger of Muleshoe Bank with and into AimBank. At no time would Muleshoe Bank operate as a separate subsidiary bank of AIM. Following the transaction, the separate corporate existence of Muleshoe Bank would

³ 12 U.S.C. § 1828(c).

⁴ 12 CFR 225.12(d)(2).

⁵ 12 U.S.C. § 1828(c). AimBank filed a Bank Merger Act application with the FDIC dated January 17, 2017, requesting prior approval of the Bank Merger. AIM has provided the Board with a copy of the application.

⁶ 12 U.S.C. §§ 1828(c)(5) and (11), 2902(3)(E), 2903(a)(2).

⁷ See 12 U.S.C. § 1842(c); 12 CFR 225.13.

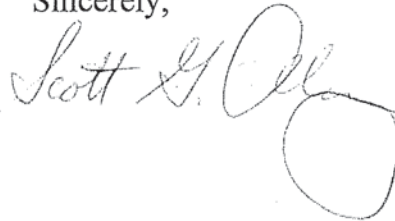
cease, and AimBank would continue to operate as a state nonmember bank. Under these circumstances, review of the transaction under section 3 of the BHC Act would be duplicative of the review under the Bank Merger Act.

Based on a review of these and other facts presented, the Legal Division believes that no regulatory purpose would be served by requiring AIM to file a formal application under section 3 of the BHC Act. The Legal Division, therefore, would not recommend that the Board take action to require a filing of a formal application by AIM in connection with the transaction described above. This opinion is subject to the receipt by AIM, AimBank, HPB, and Muleshoe Bank of all other necessary regulatory approvals and compliance with any terms and conditions that may be imposed upon approval of the proposal.

This opinion is based on all the facts and representations presented to Federal Reserve staff. Any material change in those facts or representations should be communicated immediately to Federal Reserve staff and may cause this opinion to be reconsidered. This opinion is limited to this proposal and does not apply to any other transaction.

If you have any questions regarding this matter, please contact Derald Seid at (202) 452-2246 or Evans Muzere at (202) 452-2621, of my staff.

Sincerely,

A handwritten signature in cursive script that reads "Scott G. Allen". The signature is written in dark ink and is positioned to the right of the word "Sincerely,". Below the signature is a large, hand-drawn oval shape.

cc: Federal Deposit Insurance Corporation