



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

SCOTT G. ALVAREZ
GENERAL COUNSEL

December 9, 2016

Aileen L. Nagy, Esq.
Nelson Mullins Riley & Scarborough LLP
201 17th Street, NW
Suite 1700
Atlanta, Georgia 30363

Dear Ms. Nagy:

This is in response to your letter, dated December 6, 2016, and received on December 7, to the Federal Reserve Bank of Atlanta requesting a waiver from an application requirement under the Bank Holding Company Act of 1956, as amended (“BHC Act”),¹ for State Bank Financial Corporation (“SBFC”), Atlanta, Georgia, a bank holding company, to acquire S Bankshares, Inc. (“S Bankshares”), a bank holding company, and thereby indirectly acquire its wholly owned subsidiary state nonmember bank, S Bank, both of Glennville, Georgia.

The purpose of the proposed transaction is to facilitate the merger of S Bank with and into SBFC’s wholly owned subsidiary state nonmember bank, State Bank and Trust Company (“State Bank”), Macon, Georgia. The transaction would occur as follows: (1) S Bankshares would merge with and into SBFC, with SBFC as the surviving entity; and (2) immediately thereafter, S Bank would merge with and into State Bank, with State Bank as the surviving entity (“Bank Merger”). You have indicated that the transaction steps would occur on the same business day and that SBFC would not hold or operate S 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 direct or indirect ownership or control of more than 5 percent of the voting shares of a bank.² Through the transaction described above, SBFC would merge with S Bankshares and acquire more than 5 percent of the

¹ 12 U.S.C. § 1841 *et seq.*

² 12 U.S.C. § 1842(a); 12 CFR 225.11.

voting shares of S Bank. Accordingly, SBFC would be required to obtain the Board's approval under section 3 of the BHC Act and Regulation Y before merging with S Bankshares.

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 ("Bank Merger Act"),³ and meets certain other criteria.⁴ Your proposal meets all of the applicable criteria, and SBFC 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 considered 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 State Bank and S Bank, the institutions' records of performance under the Community Reinvestment Act, the institutions' effectiveness in combatting 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, SBFC would acquire control of S Bank only for the short time necessary to complete the merger of S Bank with and into State Bank. At no time would S Bank operate as a separate subsidiary bank of SBFC. Following the transaction, the separate corporate existence of S Bank would cease, and State Bank would continue to operate as a state nonmember bank. Under these circumstances, review of the

³ 12 U.S.C. § 1828(c).

⁴ 12 CFR 225.12(d)(2).

⁵ 12 U.S.C. § 1828(c). State Bank filed a Bank Merger Act application with the FDIC on September 21, 2016, requesting prior approval of the Bank Merger. SBFC has provided the Board with a copy of the application. The FDIC approved the application on December 7, 2016.

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.

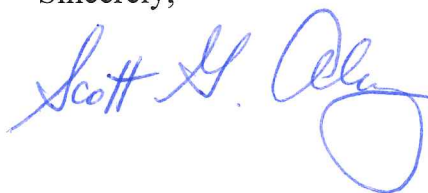
transaction under section 3 of the BHC Act would be duplicative of the review under the Bank Merger Act.

Based on a review of these and other facts presented, the Legal Division believes that no regulatory purpose would be served by requiring SBFC 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 SBFC in connection with the transaction described above. This opinion is subject to receipt by SBFC, State Bank, S Bankshares, and S 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 Matthew Suntag at (202) 452-3694 or Jonah Kind at (202) 452-2045, of my staff.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott G. Allen". The signature is written in a cursive style with a large, looped "A" at the end.

cc: Federal Deposit Insurance Corporation