

FEDERAL RESERVE SYSTEM

Lea M. McMullan Trust
Shelbyville, Kentucky

Citizens Union Bancorp of Shelbyville, Inc.
Shelbyville, Kentucky

Order Approving Acquisition of a Bank

Lea M. McMullan Trust (“McMullan Trust”) and its subsidiary, Citizens Union Bancorp of Shelbyville, Inc. (collectively, “CUB”), bank holding companies within the meaning of the Bank Holding Company Act (“BHC Act”), have requested the Board’s approval under section 3 of the BHC Act (12 U.S.C. § 1842(a)(3)) to acquire all the outstanding voting shares of Dupont State Bank, Dupont, Indiana (“Dupont”).¹

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (65 Federal Register 80,864 (2000)). 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.

¹ McMullan Trust is a registered bank holding company that owns 35.6 percent of

the voting stock of Citizens Union Bancorp.

CUB operates two subsidiary banks in Kentucky. CUB is the 33rd largest commercial banking organization in Kentucky, controlling approximately \$210.9 million in deposits, representing less than 1 percent of total deposits in commercial banking organizations in the state (“state deposits”). Dupont is the 126th largest commercial banking organization in Indiana, controlling approximately \$16.9 million in deposits, representing less than 1 percent of state deposits.²

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 are met.³ For purposes of the BHC Act, the home state of CUB is Kentucky, and CUB would acquire a bank in Indiana. All the conditions for an interstate acquisition enumerated in section 3(d) are met in this case.⁴ In view of all the facts of record, the Board is permitted to approve the proposal under section 3(d) of the BHC Act.

² State deposit and ranking data are as of June 30, 1999.

³ A bank holding company’s home state is that state in which the total deposits of all banking subsidiaries of such company were the largest on the later of July 1, 1966, or on the date on which the company became a bank holding company. 12 U.S.C. § 1841(o)(4)(C).

⁴ See 12 U.S.C. §§ 1842(d)(1)(A) and (B), 1842(d)(2)(A) and (B). CUB is adequately capitalized and adequately managed, as defined by applicable law. In addition, on consummation of the proposal, CUB would control less than 10 percent of the total amount of deposits of insured depository institutions in the United States. The state law requirements also are satisfied in this case. See IND. CODE ANN. § 28-2-16-17(f) and KY. REV. STAT. ANN. §§ 287.900(2) and

Competitive, Financial, and Managerial Considerations

CUB and Dupont do not compete directly in any banking market. Based on 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 banking resources in any relevant banking market.

(3). All other requirements under section 3(d) of the BHC Act are met in this case.

The Board also has considered the financial and managerial resources and future prospects of CUB and its subsidiaries in light of all the facts of record, including a comment letter, reports of examination and other supervisory information assessing the financial and managerial resources of the organizations, and information provided by CUB.⁵ The Board notes that CUB and its subsidiaries

⁵ As part of its review, the Board carefully considered a comment about the management of CUB and one of its subsidiary banks from a former management official of CUB, who is a minority shareholder. The commenter also alleged without supporting facts that CUB had violated shareholders' rights. State law and federal securities law generally govern the rights of shareholders in a bank holding company. The Board and the courts have generally found that matters concerning the rights of shareholders are not among the factors that the Board is entitled to

are well capitalized and are expected to remain so after consummation of the proposal. The Board also has considered other aspects of the financial condition and resources of CUB, its subsidiary banks, and Dupont, and the

consider under the BHC Act. See, e.g., First National Bank Group, Inc., 84 Federal Reserve Bulletin 959 (1998) (citing Western Bancshares, Inc. v. Board of Governors, 480 F.2d 749 (10th Cir. 1973)).

structure of the proposed transaction. In addition, the Board has reviewed the current managerial resources and future prospects of CUB's entire organization, including confidential supervisory examination information. Based on these and all the facts of record, including confidential reports of examination, the Board has concluded that the financial and managerial resources and the future prospects of CUB, its subsidiary banks, and Dupont are consistent with approval, as are the other supervisory factors the Board must consider under section 3 of the BHC Act.

Convenience and Needs Considerations

In acting on a proposal under section 3 of the BHC Act, the Board is required to consider the effect of the proposal on the convenience and needs of the community to be served and to take into account the records of the relevant depository institutions under the Community Reinvestment Act ("CRA").⁶ The Board has carefully considered the convenience and needs factor and the CRA performance records of CUB's subsidiary banks and Dupont in light of all the facts of record, including allegations that CUB has failed to meet the need for credit and banking services in Shelby County, Kentucky. Shelby County is in the assessment area of CUB's largest subsidiary bank, Citizens Union Bank of Shelbyville, Shelbyville, Kentucky ("Citizens"). Currently, Citizens' main office and four of its five branches operate in Shelby County.

⁶ 12 U.S.C. § 2901 et seq.

As provided in the CRA, the Board has evaluated the convenience and needs factor in light of examinations of the CRA performance records of the relevant institutions by their appropriate federal supervisor.⁷ Citizens received an “outstanding” rating from its primary federal supervisor, the Federal Deposit Insurance Corporation (“FDIC”), at its most recent evaluation for CRA performance, as of March 29, 1999 (“1999 Citizens Evaluation”). First Farmers Bank and Trust Company, Owenton, Kentucky (“First Farmers”), CUB’s other subsidiary bank, and Dupont received “satisfactory” ratings from the FDIC at their most recent evaluation for CRA performance.⁸ The reports of examination of CUB’s subsidiary banks and Dupont indicate that the examiners found no evidence of substantive violations of the antidiscrimination laws.

In the 1999 Citizens Evaluation, examiners noted that Citizens offered a full line of deposit and loan products, including special loan products

⁷ The Interagency Questions and Answers Regarding Community Reinvestment provides that an institution’s most recent CRA performance evaluation is an important consideration in the application 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. 65 Federal Register 25,088 and 25,107 (2000).

⁸ First Farmers received a “satisfactory” rating, as of September 10, 1998, and Dupont received a “satisfactory” rating, as of January 6, 1997.

designed for first-time homebuyers, small business owners, and small farmers through various government-sponsored loan programs. These included products

through programs offered by the Small Business Administration, the Farm Service Agency, the Federal Housing Administration, and the Kentucky Housing Corporation. Examiners also found that a majority of Citizens' home mortgage and business loans were in the bank's assessment area. In addition, examiners reported that Citizens had a reasonable distribution of home mortgage loans to individuals of varying income levels and an excellent record of consumer lending to low- and moderate-income ("LMI") borrowers.

Examiners also commended Citizens for its community development lending activities and determined that the level of community development investments held by Citizens to address affordable housing and other credit needs was outstanding. For example, examiners noted that Citizens served as the lead bank in a loan participation to provide \$500,000 in financing to purchase and redevelop neglected houses in the downtown area of Shelbyville. Examiners also reported that the bank financed a project to help fund a hospital that cares for LMI families in Shelby County. In addition, examiners noted that Citizens had invested in nine low-income real estate tax credits for the renovation or construction of LMI housing in Shelby and Jefferson Counties, Kentucky.

In the 1999 Citizens Evaluation, examiners also noted that the bank's delivery of services reflected an excellent responsiveness to the needs of the community and that its delivery systems were reasonably accessible to most areas of the bank's assessment area.⁹ In addition, examiners commended Citizens' employees for their involvement in numerous organizations in the bank's assessment

⁹ Examiners noted that, at the time of the most recent CRA evaluation, Citizens maintained a strong presence in Shelby County, controlling 40 percent of the

area to help attract new businesses, promote the expansion of existing businesses, provide housing for LMI residents, or provide educational or other services to LMI individuals or families.

The Board has considered carefully the entire record in its review of the convenience and needs factor under the BHC Act. Based on all the facts of record, including the relevant CRA performance evaluations, the comment received, and information provided by CUB, the Board concludes that considerations relating to convenience and needs, including the CRA performance records of the banks involved in the proposal, are consistent with approval.

Conclusion

Based on all the facts of record, the Board has determined that this application should be, and hereby is, approved. The Board's approval is specifically conditioned on the compliance by CUB with all the commitments made in connection with the application. For purposes of this action, the commitments relied on by the Board in reaching its decision 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 of Dupont shall not be consummated before the

deposits in the county, which was the largest share of any single financial institution. As noted, Citizens currently has its main office and four out of five branch offices in Shelby County.

fifteenth calendar day after the effective date of this order, and not later than three months after the effective date of this order, unless such period is extended for good cause by the Board or the Federal Reserve Bank of St. Louis, acting pursuant to delegated authority.

By order of the Board of Governors,¹⁰ effective February 12, 2001.

(Signed)

Robert deV. Frierson
Associate Secretary of the Board

¹⁰ Voting for this action: Chairman Greenspan, Vice Chairman Ferguson, and Governors Kelley, Meyer, and Gramlich.