

## 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 9.9 percent of the voting shares of CBT Financial Corp. (“CBT”), and thereby indirectly acquire an interest in CBT’s subsidiary bank, Clearfield Bank & Trust Company (“Clearfield Bank”), both in Clearfield, Pennsylvania.<sup>1</sup>

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (68 Federal Register 60,105 (2003)). 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 \$2.8 billion, is the 18<sup>th</sup> largest banking organization in Pennsylvania, controlling total deposits of \$1.9 billion, which represents 1.1 percent of total deposits in banking organizations in the state (“state deposits”).<sup>2</sup> CBT, with consolidated assets of \$254 million, is the 121<sup>st</sup> largest banking organization in Pennsylvania, controlling \$187.1 million in

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<sup>1</sup> S&T owns 4.99 percent of CBT’s voting shares. S&T proposes to acquire the additional shares of CBT through a cash purchase or series of purchases on the open market.

<sup>2</sup> Asset data for S&T are as of September 30, 2003. Deposit and ranking data are as of June 30, 2002.

deposits, which represents less than 1 percent of state deposits.<sup>3</sup> If S&T were deemed to control CBT on consummation of the proposal, S&T would remain the 18<sup>th</sup> largest banking organization in Pennsylvania, controlling approximately \$2.1 billion in deposits, which would represent 1.2 percent of state deposits.

The Board received a comment from CBT objecting to the proposal on the grounds that the proposed investment could adversely affect the financial condition of both CBT and S&T. The Board has considered carefully CBT'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.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup>

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<sup>3</sup> Asset data for CBT are as of June 30, 2003. Deposit and ranking data are as of June 30, 2002.

<sup>4</sup> 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).

<sup>5</sup> See 12 U.S.C. § 1842(a)(3).

<sup>6</sup> See, e.g., 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); Mansura Bancshares, Inc., 79 Federal Reserve Bulletin 37 (1993) ("Mansura") (acquisition of 9.7 percent of the voting shares of a bank holding company).

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 CBT or Clearfield Bank. S&T has agreed to abide by certain commitments previously 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.<sup>7</sup> For example, S&T has committed not to exercise or attempt to exercise a controlling influence over the management or policies of CBT or any of its subsidiaries; not to seek or accept representation on the board of directors of CBT or any of its subsidiaries; and not to have any director, officer, employee, or agent interlocks with CBT or any of its subsidiaries. S&T also has committed not to attempt to influence the dividend policies, loan decisions, or operations of CBT or any of its subsidiaries. Moreover, the BHC Act prohibits S&T from acquiring additional shares of CBT or attempting to exercise a controlling influence over CBT without the Board's prior approval.

The Board has adequate supervisory authority to monitor compliance by S&T with the commitments, and the ability to take enforcement action against S&T if it violates any of the commitments.<sup>8</sup> 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 CBT for purposes of the BHC Act.<sup>9</sup> Based on these considerations and all other facts of record, the Board has concluded that S&T would not acquire control of, or the ability to exercise a

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<sup>7</sup> 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.

<sup>8</sup> See 12 U.S.C. § 1818(b)(1).

<sup>9</sup> See 12 U.S.C. § 1841(a)(2)(C).

controlling influence over, CBT through the proposed acquisition of voting shares.

### Competitive 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. S&T and CBT compete directly in the Clearfield-Jefferson, Pennsylvania, banking market.<sup>10</sup> S&T is the largest depository institution<sup>11</sup> in the market, controlling \$425.1 million in deposits, which represents 24.7 percent of the total deposits in depository institutions in the market (“market deposits”).<sup>12</sup> CBT is the fourth largest depository institution in the market, controlling \$154.8 million in deposits, which represents 9 percent of market deposits. If considered a combined organization on consummation of the proposal, S&T and CBT would be the largest depository institution in the Clearfield-Jefferson banking market, controlling \$579.9 million in deposits, which would represent 33.7 percent of market deposits. The Herfindahl-Hirschman Index (“HHI”) for the Clearfield-Jefferson banking market would increase 444 points to 2,119.<sup>13</sup>

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<sup>10</sup> The Clearfield-Jefferson market is defined as Clearfield and Jefferson Counties and North Mahoning, Canoe, and Banks Townships in Indiana County, all in Pennsylvania.

<sup>11</sup> 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).

<sup>12</sup> Market deposit data are as of June 30, 2002, and reflect mergers and acquisitions through November 11, 2003.

<sup>13</sup> Under the revised Department of Justice Merger Guidelines, 49 Federal Register 26,823 (June 29, 1984), a market in which the post-merger HHI is above 1800 is

The Board believes that the proposal would raise serious competitive concerns in the Clearfield-Jefferson banking market if S&T were to acquire control of CBT. Based on all the facts of record, including S&T's commitments discussed above, the Board has concluded that S&T would not acquire control of, or exercise a controlling influence over, CBT or its subsidiaries, including Clearfield Bank, as a result of the proposed acquisition. The Board's inquiry does not end, however, with its finding that S&T will not control CBT. The Board previously has noted that one company need not acquire control of another company to lessen competition between them substantially.<sup>14</sup> 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.<sup>15</sup>

In this case, the Board has concluded, after careful analysis of the record, that no significant reduction in competition is likely to result from the proposed acquisition. The record shows that S&T intends the acquisition to be a passive investment, and that there will be no officer or director interlocks between

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considered highly 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.

<sup>14</sup> 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”).

<sup>15</sup> See, e.g., BOK Financial Corp., 81 Federal Reserve Bulletin 1052, 1053-54 (1995); Mansura at 38; Sun Banks at 244.

S&T and CBT and their respective subsidiaries, including Clearfield Bank. There is no evidence that S&T, by virtue of holding 9.9 percent of the voting shares of CBT, would have access to confidential information that would enable it to engage in anticompetitive behavior with respect to CBT or Clearfield Bank. Moreover, S&T has committed not to exercise a controlling influence over CBT and, therefore, may not direct CBT or Clearfield Bank to act in coordination with S&T in a manner that reduces competition.

The Board has also considered the market conditions in the Clearfield-Jefferson banking market. The Board notes that, in addition to S&T and CBT, eleven other bank and thrift competitors, including four competitors with market shares of at least 8 percent each, provide additional sources of banking services to the market. Moreover, Clearfield-Jefferson is a large rural market with total deposits of more than \$1.7 billion, and its population per banking office and deposits per banking office exceed the averages for other counties in Pennsylvania, indicating that the market is attractive for new entry. In fact, a savings bank established a *de novo* branch in the market in 2002. The Department of Justice has also reviewed the proposal and has advised the Board that it does not believe that the proposed acquisition would likely have a significantly adverse effect on competition in any relevant banking market.

Based on these considerations and other facts of record, the Board has concluded that competitive considerations are consistent with approval.

#### Other Factors

The Board also is required under section 3 of the BHC Act to consider the financial and managerial resources and future prospects of the companies and banks concerned.<sup>16</sup> The Board notes that S&T is well managed

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<sup>16</sup> CBT asserts that S&T's ownership of a large percentage of CBT's shares could adversely affect the price of CBT's stock. CBT notes that its stock is thinly traded

and well capitalized and would remain so after the proposed acquisition. The Board has reviewed the financial and managerial resources of S&T and CBT and has concluded on the basis of all the facts of record that these resources, the future prospects of S&T, CBT, and their subsidiaries, and the other supervisory factors the Board must consider are consistent with approval of this application. 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, 12 U.S.C. § 2901 et seq. (“CRA”), are consistent with approval of the application.<sup>17</sup>

### Conclusion

Based on the foregoing and all other facts of record, the Board has determined that this 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 all representations and commitments made in connection with this application,

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and contends that if S&T sold a large number of shares at once, the price could change precipitously. CBT further argues that this result could adversely affect S&T’s financial resources by diminishing the value of S&T’s investment in CBT. 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 (10<sup>th</sup> Cir. 1973). The potential effect of future events on the price of a company’s shares is not among the factors the Board is charged with considering under the BHC Act or other applicable statutes. Moreover, as noted, S&T is and would continue to be well capitalized after the proposed acquisition, and other considerations relating to the financial resources and future prospects of S&T and CBT are consistent with approval.

<sup>17</sup> S&T’s lead subsidiary bank, S&T Bank, also in Indiana, and Clearfield Bank each received “satisfactory” ratings at their most recent examinations for CRA performance by the Federal Deposit Insurance Corporation, as of January 1, 2003, and January 1, 1999, respectively.

including the commitments discussed in this order. These representations 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.

The acquisition of CBT'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,<sup>18</sup> effective November 25, 2003.

(signed)

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Jennifer J. Johnson  
Secretary of the Board

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<sup>18</sup> Voting for this action: Chairman Greenspan, Vice Chairman Ferguson, and Governors Gramlich, Olson, and Bernanke. Absent and not voting: Governors Bies 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 CBT Financial Corporation (“CBT”) or any of its subsidiaries;
- (2) Seek or accept representation on the board of directors of CBT or any of its subsidiaries;
- (3) Have or seek to have any employee or representative serve as an officer, agent, or employee of CBT or any of its subsidiaries;
- (4) Take any action that would cause CBT 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 CBT 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 board of directors of CBT or any of its subsidiaries;
- (7) Solicit or participate in soliciting proxies with respect to any matter presented to the shareholders of CBT 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 CBT or any of its subsidiaries;
- (9) Dispose or threaten to dispose of shares of CBT or any of its subsidiaries as a condition of specific action or nonaction by CBT or any of its subsidiaries; or
- (10) Enter into any other banking or nonbanking transactions with CBT or any of

its subsidiaries, except that S&T may establish and maintain deposit accounts with CBT's subsidiary depository institution, provided that the aggregate balance of all such deposit 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 CBT or any of its subsidiaries.