

FEDERAL RESERVE SYSTEM

Synovus Financial Corp.
Columbus, Georgia

Order Approving the Acquisition of a Bank

Synovus Financial Corp. (“Synovus”), a bank 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 Act¹ to acquire all the voting shares of Cohutta Banking Company of Tennessee, Chattanooga, Tennessee (“CBCT”), a de novo state-chartered bank.² After consummation of the proposal, Synovus will operate CBCT as a separate subsidiary bank.

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (69 Federal Register 59,229 (2004)). 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.

Synovus, with total consolidated assets of \$23.6 billion, is the 47th largest depository organization in the United States, controlling \$17.5 billion

¹ 12 U.S.C. § 1842.

² Under Tennessee branching law, one of Synovus’s Tennessee-chartered subsidiary banks established a phantom branch in Chattanooga, and the organizers and proposed management of CBCT filed an application to charter the branch as a de novo institution (CBCT). The Tennessee Department of Financial Institutions (“TDFI”) approved CBCT’s charter on October 20, 2004, and the Federal Deposit Insurance Corporation (“FDIC”) granted CBCT deposit insurance on October 22. Synovus also has filed applications to acquire CBCT that must be approved by the FDIC, TDFI, and the Georgia Department of Banking and Finance.

of deposits, which represents less than 1 percent of the total deposits in insured depository institutions in the United States.³ In Tennessee, Synovus is the 16th largest depository organization, and its subsidiary depository institutions have approximately \$1.1 billion in combined assets and \$720.3 million in combined deposits. Synovus operates 40 subsidiary insured depository institutions in Alabama, Florida, Georgia, South Carolina, and Tennessee, as well as a nondepository trust company in Georgia.

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 bank holding company's home state if certain conditions are met. For purposes of the BHC Act, the home state of Synovus is Georgia,⁴ and CBCT is located in Tennessee.⁵

Based on a review of all the facts of record, including relevant state statutes, the Board finds that all conditions for an interstate acquisition enumerated

³ Asset, deposit, nationwide, and statewide ranking data are as of June 30, 2004. In this context, depository institutions include commercial banks, savings banks, and savings associations.

⁴ See 12 U.S.C. § 1842(d). A bank holding company's home state is the state in which the total deposits of all banking subsidiaries of such company were the largest in July 1, 1966, or the date on which the company became a bank holding company, whichever is later.

⁵ For purposes of section 3(d), the Board considers a bank to be located in states in which the bank is chartered or headquartered or operates a branch. See 12 U.S.C. §§ 1841(o)(4)-(7) and 1842(d)(1)(A) and (d)(2)(B).

in section 3(d) are met in this case.⁶ 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. The BHC Act also prohibits the Board from approving a bank acquisition that would substantially lessen competition in any relevant banking market, unless the Board finds that the anticompetitive effects are clearly outweighed in the public interest by the probable effect of the proposal in meeting the convenience and needs of the community to be served.⁷

The proposal involves the formation and acquisition of a de novo bank in the Chattanooga Area banking market,⁸ which would expand Synovus's

⁶ See 12 U.S.C. §§ 1842(d)(1)(A)-(B) and 1842(d)(2)(A)-(B). Synovus is adequately capitalized and adequately managed, as defined by applicable law. Although Tennessee law generally prohibits the acquisition of a bank that has been in operation less than five years, the state's provisions on branch banking provide an exception to this prohibition for transactions structured like Synovus's proposal. See TENN. CODE ANN. §§ 45-2-1403 and 45-2-614(c) (2000). On consummation of the proposal, Synovus and its affiliates would control less than 10 percent of the total amount of deposits in insured depository institutions in the United States and less than 30 percent of the total amount of deposits of insured depository institutions in Tennessee. See TENN. CODE ANN. § 45-2-1404. All other requirements under section 3(d) of the BHC Act also would be met on consummation of the proposal.

⁷ 12 U.S.C. § 1842(c)(1).

⁸ The Chattanooga Area banking market is defined as Hamilton and Marion Counties, excluding the portion of the town of Monteagle that is outside Marion County, all in Tennessee; and Catoosa, Dade, and Walker Counties in Georgia.

operations in the market⁹ and increase its ability to offer products and services to customers in that market. The Board previously has noted that the establishment of a de novo bank enhances competition in the relevant banking market and is a positive consideration in an application under section 3 of the BHC Act.¹⁰ There is no evidence that the proposal would create or further a monopoly or lessen competition in any relevant market. Accordingly, the Board concludes, based on all the facts of record, that consummation of the proposal would not result in any significantly adverse effects on competition or on the concentration of banking resources in any relevant banking market and that competitive considerations are consistent with approval.

Financial, Managerial, and Supervisory Considerations

Section 3 of the BHC Act requires the Board to consider the financial and managerial resources and future prospects of the companies and banks involved in the proposal and certain other supervisory factors. The Board has considered carefully these factors in light of all the facts of record, including confidential reports of examination, other confidential supervisory information from the primary federal supervisors of the organizations involved in the proposal and certain other agencies, publicly reported information and other financial

⁹ Synovus, through The Cohutta Banking Company, Chatsworth, Georgia, has two branches in the Chattanooga Area banking market with \$60.4 million in total deposits. Synovus ranks 17th in the market with less than 1 percent of the total deposits in depository institutions in the market.

¹⁰ See Canadian Imperial Bank of Commerce, 85 Federal Reserve Bulletin 733 (1999); Wilson Bank Holding Company, 82 Federal Reserve Bulletin 568 (1996).

information, information provided by Synovus, and public comment on the proposal.¹¹

In evaluating the 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 and the financial condition of the subsidiary banks 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, earnings prospects, and the impact of the proposed funding of the transaction.

Based on its review of these factors, the Board finds that Synovus has sufficient financial resources to effect the proposal. Synovus will use existing cash resources to purchase CBCT's shares and capitalize the bank. Synovus is well capitalized and will remain so on consummation of the proposal, and CBCT will be well capitalized.

The Board has considered the managerial resources of Synovus in light of its supervisory experiences and those of the other relevant federal and state banking supervisors with the organization and its subsidiary banks and their

¹¹ A commenter expressed concern over press reports about an investigation of Synovus's credit-card processing company subsidiary and one of its clients for possible violations of federal law in connection with mailings on behalf of that client. The investigation concerns compliance with U.S. Postal Service ("USPS") regulations that authorize discounted postal rates subject to certain mailing list requirements. This matter is not within the Board's jurisdiction to adjudicate. The Board has consulted with the USPS and the Department of Justice about the matter.

records of compliance with applicable banking laws. The Board has reviewed the examination records of the Synovus organization, including assessments of its management, risk management systems, and operations. Synovus and its subsidiary depository institutions are considered well managed. The Board also has reviewed the proposed management, risk management systems, and operations of CBCT and consulted with the FDIC and TDFI.

Based on all the facts of record, the Board has concluded that considerations relating to the financial and managerial resources and future prospects of Synovus and CBCT are consistent with approval, as are the other supervisory factors under section 3 of the BHC Act.

Convenience and Needs 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 bank expansionary proposals.

The Board has carefully considered the convenience and needs factor and the CRA performance records of Synovus’s subsidiary banks in light of all the facts of record, including public comment on the proposal. A commenter opposing the proposal alleged, based on data reported under the Home Mortgage Disclosure

¹² 12 U.S.C. § 2901 et seq.; 12 U.S.C. § 1842(c)(2).

Act (“HMDA”),¹³ that Synovus Mortgage Corp., Birmingham, Alabama (“SMC”), Synovus’s indirect subsidiary mortgage lending company,¹⁴ engaged in disparate treatment of African Americans in home mortgage lending in certain markets.¹⁵

As previously noted, CBCT is in formation and has not begun operations. CBCT was required to submit a comprehensive CRA plan to the FDIC in connection with its charter application, and the FDIC considered the CRA plan in granting preliminary approval of the bank’s state charter. CBCT’s plan indicates that the bank intends to lend to small- and medium-sized businesses, including those in LMI census tracts; engage in mortgage and other consumer

¹³ 12 U.S.C. § 2801 et seq.

¹⁴ SMC is a subsidiary of First Commercial Bank, also in Birmingham and an indirect subsidiary bank of Synovus.

¹⁵ The commenter also asserted that Synovus’s lead subsidiary bank, Columbus Bank and Trust (“CB&T”), Columbus, controls the operations of CompuCredit Corporation (“CompuCredit”), Atlanta, both in Georgia, a third-party organization that engages in subprime credit-card and payday lending. CB&T and CompuCredit offer a co-branded credit card program (“credit card affinity program”) under a contractual arrangement. Under the contract, CB&T reviews, modifies, and approves the credit terms and underwriting criteria proposed by CompuCredit for the credit card program and issues the credit cards, and CompuCredit buys the credit card receivables and provides certain marketing and other services for the issued cards. Synovus represented that CB&T reviews the terms and underwriting criteria proposed by CompuCredit to ensure that all aspects of the credit card affinity program comply with applicable consumer protection laws and regulations. Synovus also stated that a Senior Regulatory Risk Analyst manages all aspects of the CB&T/CompuCredit relationship, which includes reviewing policies and procedures with internal and external counsel, reviewing customer complaints, and initiating audits. The Board consulted with the FDIC and reviewed supervisory and other confidential information about this credit card affinity program. Synovus is not involved in any other business conducted by CompuCredit and does not own or control CompuCredit within the meaning of the BHC Act.

lending activities; and provide a variety of banking, trust, brokerage, and insurance services. Synovus represented that CBCT will implement Synovus's centralized CRA policies and procedures to help ensure that the existing and anticipated credit needs of CBCT's community are met. The FDIC will evaluate the implementation of CBCT's CRA plan in future CRA performance evaluations of the bank.

A. CRA Performance Evaluations

As provided in the CRA, the Board has evaluated the convenience and needs factor in light of examinations of the CRA performance records of Synovus's subsidiary insured depository institutions by the appropriate federal supervisors.¹⁶ Each of Synovus's subsidiary depository institutions received "outstanding" or "satisfactory" ratings at their most recent performance examinations. CB&T, Synovus's lead bank, received an overall "satisfactory" rating at its most recent CRA performance evaluation by the FDIC, as of January 14, 2002.

CB&T received a "high satisfactory" rating under the lending, investment, and service tests.¹⁷ Examiners noted that although CB&T considered itself to be primarily a commercial lender, it offered a full range of products and services to individuals in its assessment areas. They found that CB&T's lending

¹⁶ The Interagency Questions and Answers Regarding Community Reinvestment provides that an institution's most recent CRA performance evaluation is an important and often controlling factor in the consideration of an institution's CRA record because it represents a detailed, on-site evaluation of the institution's overall record of performance under the CRA by its appropriate federal supervisory agency. 66 Federal Register 36,620 and 36,639 (2001).

¹⁷ The evaluation period of the examination was January 1, 2001, through January 14, 2002, and included a review of HMDA-reportable mortgage loans by SMC in the bank's assessment area from January 1, 2000, through September 30, 2001. CB&T's assessment area is the Columbus, Georgia Metropolitan Statistical Area ("Columbus MSA").

activity demonstrated a good responsiveness to community credit needs.

Examiners noted that the bank offered innovative and flexible lending programs, including various products designed to meet the needs of small businesses owned by minorities or women; different loan products sponsored by the Small Business Administration; and alternative home mortgage loan products through its affiliate, SMC, for borrowers who did not qualify for its conventional mortgage loans.

Examiners reported that CB&T was the leading lender in 2000, by number and dollar volume of small business loans and small farm loans in the bank's assessment area.¹⁸ CB&T originated small business loans totaling approximately \$153 million and small farm loans totaling approximately \$6.9 million in its assessment area. Examiners noted the bank's geographic distribution of all its loans reflected adequate penetration and that its distribution of loans based on borrower income was good. More than 80 percent of its small business loan originations by number and dollar volume were to businesses with gross annual revenues of \$1 million or less, and more than 96 percent of its small farm loan originations were to farms with gross annual revenues of \$1 million or less. In addition, the bank originated more than 19 percent of its home mortgage loans to LMI borrowers.

Examiners noted that CB&T's level of community development lending was adequate and reflected the bank's limited opportunities to participate in community development projects in its assessment area. During the evaluation

¹⁸ In this context, small business loans are loans with original amounts of \$1 million or less that are either secured by nonfarm nonresidential properties or are classified as commercial and industrial loans. Small farm loans are loans with original amounts of \$500,000 or less that are either secured by farmland, including farm residential improvements, or are classified as loans to finance agricultural production and other loans to farmers.

period, CB&T extended community development loans totaling more than \$14 million.

Examiners reported that the bank's level of qualified investments and grants was good, despite the limited investment opportunities in its assessment area. CB&T made 45 community development investments and grants totaling more than \$2.25 million during the evaluation period.

In addition, examiners found that CB&T provided a relatively high level and variety of financial and retail services to meet the needs of its assessment area. CB&T's community development activities included a school savings program for children from LMI families, financial training and special financing packages for businesses owned by women or minorities, and assistance in establishing a credit union focused on serving LMI communities.

B. HMDA and Fair Lending Records

The Board also has carefully considered the lending record of SMC in light of the comments received on the HMDA data. Based on 2003 HMDA data, the commenter alleged that SMC disproportionately denied African-American applicants for home mortgage purchase or refinance loans in three MSAs in Alabama and Georgia.¹⁹

¹⁹ The Board analyzed the 2003 HMDA data for SMC in the Columbus MSA and the Birmingham and Montgomery, Alabama MSAs, which the commenter identified, and in the Atlanta, Georgia; Huntsville, Alabama; and Pensacola, Florida MSAs, where SMC also conducts much of its lending. SMC serves as the primary mortgage lender for most of Synovus's subsidiary banks. Synovus stated that if an applicant seeks a conventional home purchase or refinance loan, the application, with the applicant's consent, is referred to SMC for processing. The Board also reviewed confidential supervisory information, information provided by Synovus, and consulted with the FDIC on SMC's HMDA-reportable lending.

In most of the markets reviewed, SMC's denial disparity ratios²⁰ with respect to African-American applicants for all HMDA-reportable loans on a combined basis were either below or slightly above the denial disparity ratios for the aggregate of all lenders in the market ("aggregate lenders").²¹ SMC's denial rate²² for African-American applicants was lower than the denial rate for the aggregate lenders in the markets reviewed.

Although the HMDA data may reflect certain disparities in the rates of applications, originations, or denials among members of different racial groups in certain local areas, the HMDA data generally do not demonstrate that SMC excluded any racial group on a prohibited basis. The Board nevertheless is concerned when HMDA data for an institution indicate 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 their race. 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. HMDA data, moreover, provide only limited information about the covered loans.²³ HMDA data, therefore, have limitations that make them

²⁰ The denial disparity ratio equals the denial rate for a particular racial category (e.g., African-American) divided by the denial rate for whites.

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

²² The denial rate represents the percentage of a lender's HMDA loan applications that were denied.

²³ 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,

an inadequate basis, absent other information, for concluding that an institution has not assisted adequately in meeting its community's 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 information on Synovus's programs for compliance with fair lending and other consumer protection laws. The Board also consulted with the FDIC, the primary regulator of First Commercial Bank, SMC, and CB&T, and considered examination reports on the compliance with fair lending laws of these and other subsidiary depository and lending institutions of Synovus. Examiners noted no evidence of discriminatory lending practices on a prohibited basis in the CRA performance evaluations of Synovus's subsidiary depository institutions.

The record also indicates that Synovus has taken steps to ensure compliance with fair lending laws. Synovus has a Corporate Compliance Department ("CCD"), managed and staffed by individuals with extensive compliance experience, which develops and maintains comprehensive compliance programs for all laws and regulations applicable to Synovus's consumer lending activities. The CCD consults with internal and external counsel to ensure the adequacy of these programs and requires Synovus lending personnel to receive annual fair-lending training.

In addition, Synovus stated that the CCD reviews the consumer lending programs of each subsidiary by examining lending overrides on a monthly basis and conducting full-file compliance reviews on an annual basis. The CCD also monitors the subsidiaries' compliance with the HMDA and the CRA on a

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.

quarterly basis. Compliance officers at each Synovus subsidiary forward complaints as appropriate to the CCD for review and action. Synovus represented that it will implement similar compliance programs at CBCT.

Synovus's CCD performs oversight of SMC's lending activities in a manner similar to its oversight of other Synovus subsidiary institutions. Internal reviews by both SMC's Quality Control Group and Synovus's CCD are conducted at various stages of the mortgage process, including the underwriting, prefunding, and postfunding periods. Independent third-party review of SMC's lending is conducted on a monthly basis, and Synovus conducts an internal audit of SMC annually.

The Board also has considered the HMDA data in light of the CRA performance records of Synovus's subsidiary depository institutions. These records demonstrate that Synovus is active in helping to meet the credit needs of its entire community.

C. Conclusion on the Convenience and Needs Factor

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 Synovus, public comment on the proposal, and supervisory and other confidential information. The Board notes that the proposal would expand the availability of financial products and services to customers by increasing the geographic scope of Synovus's banking operations. Based on a review of the entire record, and for reasons discussed above, the Board concludes that considerations related to the convenience and needs factor, including the CRA performance records of the relevant depository institutions, are consistent with approval.

Conclusion

Based on the foregoing and all the facts of record, the Board has determined that the application should be, and hereby is, approved. In reaching its 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 Synovus with the conditions imposed in this order, the commitments made to the Board in connection with the application, and receipt of all other regulatory approvals. The conditions and commitments are deemed to be conditions imposed in writing by the Board in connection with its findings and decision herein and, as such, may be enforced in proceedings under applicable law.

The acquisition of CBCT's voting shares may 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 the Federal Reserve Bank of Atlanta, acting pursuant to delegated authority.

By order of the Board of Governors,²⁴ effective February 23, 2005.

(signed)

Robert deV. Frierson
Deputy Secretary of the Board

²⁴ Voting for this action: Chairman Greenspan, Vice Chairman Ferguson, and Governors Gramlich, Bies, Olson, Bernanke, and Kohn.