

FEDERAL RESERVE SYSTEM

Compass Bancshares, Inc.
Birmingham, Alabama

Compass Bank
Birmingham, Alabama

Order Approving the Acquisition of Bank Holding Companies, Merger of Banks, and Establishment of Branches

Compass Bancshares, Inc. (“Compass”), 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 Act¹ to acquire TexasBanc Holding Co. (“TBH”), Weatherford, and its subsidiary, TexasBank, Fort Worth, both of Texas.² In addition, Compass’s subsidiary bank, Compass Bank, a state member bank, has requested the Board’s approval under section 18(c) of the Federal Deposit Insurance Act (“Bank Merger Act”)³ to merge with TexasBank, with Compass Bank as the surviving entity. Compass Bank has also applied under section 9 of the Federal Reserve Act (“FRA”) to establish and operate branches at TexasBank’s main office and branch locations.⁴

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published in the Federal Register (70 Federal Register 70,613 (2005)) and in local publications in accordance with relevant

¹ 12 U.S.C. section 1842.

² Compass also would acquire M&F Financial Corp., Wilmington, Delaware, the intermediate parent holding company of TexasBank.

³ 12 U.S.C. section 1828(c).

⁴ 12 U.S.C. section 321. These branches are listed in Appendix A.

statutes and the Board's Rules of Procedure.⁵ As required by the BHC Act and the Bank Merger Act, reports on the competitive effects of the mergers were requested from the United States Attorney General and the appropriate banking agencies. The time for filing comments has expired, and the Board has considered the applications and all comments received in light of the factors set forth in section 3 of the BHC Act, the Bank Merger Act, and the FRA.

Compass, with total consolidated assets of approximately \$30.8 billion, is the 48th largest depository organization in the United States, and it controls deposits of approximately \$17.9 billion, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the United States.⁶ Compass operates subsidiary depository institutions in Alabama, Arizona, Colorado, Florida, New Mexico, and Texas and engages in numerous permissible nonbanking activities. In Texas, Compass is the eighth largest depository organization, controlling deposits of approximately \$7 billion, which represent 2 percent of the total amount of deposits of insured depository institutions in the state ("state deposits").

TBH, with total consolidated assets of approximately \$1.7 billion, operates one depository institution, TexasBank, which has branches only in Texas. TexasBank is the 31st largest depository institution in Texas, controlling deposits of approximately \$1.8 billion, which represent less than 1 percent of state deposits.

⁵ 12 CFR 262.3(b).

⁶ Asset data are as of December 31, 2005, and national ranking data are as of September 30, 2005. Deposit data and state rankings are as of June 30, 2005, and reflect merger activity through November 15, 2005. In this context, the term "insured depository institutions" includes insured commercial banks, savings banks, and savings associations.

On consummation of the proposal, Compass would become the 47th largest depository organization in the United States, with total consolidated assets of approximately \$32.5 billion. Compass would become the seventh largest depository organization in Texas, controlling deposits of approximately \$8.8 billion, which represent 2.3 percent of state deposits.

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.⁷ Section 44 of the Federal Deposit Insurance Act (“FDI Act”) authorizes a bank to merge with another bank under certain conditions unless, before June 1, 1997, the home state of one of the banks involved in the transaction adopted a law expressly prohibiting merger transactions involving out-of-state banks.⁸ For purposes of section 3(d) of the BHC Act, the home state of Compass is Alabama, and for purposes of section 44 of the FDI Act, the home state of Compass Bank is Alabama.⁹ Compass proposes to acquire, and Compass Bank proposes to merge with, a bank located in Texas.

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

⁷ A bank holding company’s home state is the state in which the total deposits of all subsidiary banks of the company were the largest on July 1, 1966, or the date on which the company became a bank holding company, whichever is later. 12 U.S.C. section 1841(o)(4)(C).

⁸ 12 U.S.C. section 1831u.

⁹ For purposes of section 3(d), the Board considers a bank to be located in the states in which the bank is chartered or headquartered or operates a branch. See 12 U.S.C. sections 1841(o)(4)-(7), 1842(d)(1)(A), and 1842(d)(2)(B). Under section 44 of the FDI Act, a state member bank’s home state is the state where it is chartered. 12 U.S.C. section 1831u(g)(4).

acquisition and bank merger enumerated in section 3(d) of the BHC Act and section 44 of the FDI Act are met in this case.¹⁰ In light of the facts of record, the Board is permitted to approve the proposal under both statutes.

Competitive Considerations

The BHC Act and the Bank Merger Act prohibit 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 in any relevant banking market. Both acts also prohibit the Board from approving a bank acquisition that would substantially lessen competition in any relevant banking market, unless the anticompetitive effects of the proposal are clearly outweighed in the public interest by its probable effect in meeting the convenience and needs of the community to be served.¹¹

Compass and TBH compete directly in the Dallas and Fort Worth banking markets in Texas.¹² The Board has carefully reviewed the competitive

¹⁰ See 12 U.S.C. section 1842(d)(1)(A)-(B), (d)(2)(A)-(B); 12 U.S.C. section 1831u. Compass and Compass Bank are adequately capitalized and adequately managed, as defined by applicable law. TexasBank has been in existence and operated for the minimum period of time required by applicable law (five years). On consummation of the proposal, Compass and Compass Bank would control less than 10 percent of the total amount of deposits of insured depository institutions in the United States and less than 20 percent of the total amount of deposits of insured depository institutions in Texas. All other requirements of section 3(d) of the BHC Act and section 44 of the FDI Act also would be met on consummation of the proposal.

¹¹ 12 U.S.C. section 1842(c)(1); 12 U.S.C. section 1828(c)(5).

¹² The Dallas banking market is defined as follows: Dallas and Rockwall Counties; the southeastern quadrant (including Denton and Lewisville) of Denton County; the southwestern quadrant (including McKinney and Plano) of Collin County; Forney and Terrell in Kaufman County; Midlothian, Waxahachie, and Ferris in Ellis County; and Grapevine and Arlington in Tarrant County, all in Texas. The Fort Worth banking market is defined

effects of the proposal in each of these banking markets in light of all the facts of record. In particular, the Board has considered the number of competitors that would remain in the banking markets, the relative shares of total deposits in depository institutions in the markets (“market deposits”) controlled by Compass and TBH,¹³ the concentration level of market deposits and the increase in this level as measured by the Herfindahl-Hirschman Index (“HHI”) under the Department of Justice Merger Guidelines (“DOJ Guidelines”),¹⁴ and other characteristics of the markets.

as follows: Johnson and Parker Counties; Tarrant County, excluding Grapevine and Arlington; Boyd, Newark, and Rhome in Wise County; and the southwestern quadrant (including Roanoke and Justin) of Denton County, all in Texas.

¹³ Deposit and market share data are based on data reported by insured depository institutions in the summary of deposits (SOD) data as of June 30, 2005 (adjusted to reflect mergers and acquisitions through November 15, 2005) and are based on calculations in which the deposits of thrift institutions are included 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 (1989); *National City Corporation*, 70 Federal Reserve Bulletin 743 (1984). Thus, the Board regularly has included thrift deposits in the market-share calculation on a 50 percent weighted basis. *See, e.g., First Hawaiian, Inc.*, 77 Federal Reserve Bulletin 52 (1991).

¹⁴ Under the DOJ Guidelines, a market is considered unconcentrated if the post-merger HHI is less than 1000, moderately concentrated if the post-merger HHI is between 1000 and 1800, and highly concentrated if the post-merger HHI is more than 1800. 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 HHI thresholds for screening bank mergers for anticompetitive effects implicitly recognize the competitive effects of limited-purpose lenders and other nondepository financial entities.

Consummation of the proposal would be consistent with Board precedent and within the thresholds in the DOJ Guidelines in each of these banking markets. After consummation of the proposal, the Dallas banking market would remain moderately concentrated and the Fort Worth banking market would remain highly concentrated, as measured by the HHI.¹⁵ In each market the increase in concentration would be small and numerous competitors would remain.

The Department of Justice has reviewed the anticipated competitive effects of the proposal and advised the Board that consummation of the proposal would not likely have a significantly adverse effect on competition in any relevant banking market. In addition, the appropriate banking agencies have been afforded an opportunity to comment and have not objected to the proposal.

Based on all the facts of record, the Board concludes that consummation of the proposal would not have a significantly adverse effect on competition or on the concentration of resources in the Dallas or Fort Worth banking markets, or in any other relevant banking market. Accordingly, the Board has determined that competitive considerations are consistent with approval.

Financial, Managerial, and Supervisory Considerations

The BHC Act and the Bank Merger Act require the Board to consider the financial and managerial resources and future prospects of the companies and depository institutions involved in the proposal and certain other supervisory factors. The Board has considered these factors in light of all the facts of record, including confidential reports of examination, other supervisory information from the primary federal and state supervisors of the organizations involved in the

¹⁵ Summaries of the market data for these banking markets are provided in Appendix B.

proposal, publicly reported and other financial information, information provided by Compass, and public comment on the proposal.¹⁶

In evaluating 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, as well as the financial condition of the subsidiary banks and significant nonbanking operations. The Board considers a variety of measures in this evaluation, 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 organizations at consummation, including their capital position, asset quality, and earnings prospects, and the impact of the proposed funding of the transaction.

Compass, TBH, and their subsidiary depository institutions are well capitalized and the resulting organizations would remain so on consummation of the proposal. Based on its review of the record in this case, the Board finds that Compass has sufficient financial resources to effect the proposal. The proposed transaction is structured as a combination share exchange and cash purchase. Compass will use existing resources to fund the cash portion of the transaction.

¹⁶ A commenter expressed concern about Compass Bank's relationships with unaffiliated retail check cashers, pawn shops, and other alternative-financial-service providers. As a general matter, the activities of the consumer finance businesses identified by the commenter are permissible, and the businesses are licensed by the states where they operate. Compass has represented that Compass Bank has lending relationships with fewer than ten alternative-financial-service providers and that these firms are subject to the bank's annual "Know Your Customer" review related to the Bank Secrecy Act. Compass also has represented that it does not play any role in the lending practices, credit review, or other business practices of these firms.

The Board also has considered the managerial resources of the organizations involved and the proposed combined organizations.¹⁷ The Board has reviewed the examination records of Compass, TBH, and their subsidiary depository institutions, including assessments of their management, risk-management systems, and operations. In addition, the Board has considered its supervisory experiences with the relevant organizations and the organizations' records of compliance with applicable banking law. Compass, TBH, and their subsidiary depository institutions are considered to be well managed. The Board also has considered Compass's plans for implementing the proposal, including the proposed management after consummation.

Based on all the facts of record, the Board concludes that considerations relating to the financial and managerial resources and future prospects of the organizations involved in the proposal are consistent with approval, as are the other supervisory factors under the BHC Act and the Bank Merger Act.

Convenience and Needs and Other Considerations

In acting on a proposal under the BHC Act and the Bank Merger Act, the Board also must consider its effects on the convenience and needs of the communities to be served and take into account the records of the relevant

¹⁷ The commenter also expressed concern about a press report indicating that a political action committee related to Compass might have contributed to candidates on the recommendation of another unrelated political action committee currently under investigation for alleged violations of Texas campaign finance laws. The Board does not have jurisdiction to administer state campaign finance laws or to investigate or adjudicate alleged violations of such laws. This matter is not within the limited statutory factors the Board may consider when reviewing an application under the BHC Act. See Western Bancshares, Inc. v. Board of Governors, 480 F.2d 749 (10th Cir. 1973).

insured depository institutions under the Community Reinvestment Act (“CRA”).¹⁸ The CRA requires the federal financial supervisory agencies to encourage insured depository 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 an institution’s record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, in evaluating bank expansionary proposals.¹⁹

The Board has considered carefully all the facts of record, including evaluations of the CRA performance records of Compass Bank and TexasBank, data reported by Compass Bank under the Home Mortgage Disclosure Act (“HMDA”),²⁰ other information provided by Compass, confidential supervisory information, and public comment received on the proposal. A commenter opposing the proposal asserted, based on 2004 HMDA data, that Compass engaged in disparate treatment of minority individuals in its home mortgage lending operations.

A. CRA Performance Evaluations

As provided in the CRA, the Board has evaluated the convenience and needs factor in light of the evaluations by the appropriate federal supervisors of the CRA performance records of the relevant insured depository institutions. An institution’s most recent CRA performance evaluation is a particularly important consideration in the applications process because it represents a

¹⁸ 12 U.S.C. section 2901 et seq.

¹⁹ 12 U.S.C. section 2903.

²⁰ 12 U.S.C. section 2801 et seq.

detailed, on-site evaluation of the institution's overall record of performance under the CRA by its appropriate federal supervisor.²¹

Compass Bank received a "satisfactory" rating at its most recent CRA performance evaluation from the Federal Reserve Bank of Atlanta, as of March 10, 2003 ("2003 Evaluation").²² TexasBank received a "satisfactory" rating at its most recent CRA performance evaluation by the Federal Reserve Bank of Dallas, as of October 6, 2003. Compass Bank's current CRA program will be implemented at the resulting bank after consummation of the merger of Compass Bank and TexasBank.

B. HMDA Data and Fair Lending Record

The Board has carefully considered Compass's lending record and HMDA data in light of public comment about its record of lending to minorities. The commenter alleged, based on 2004 HMDA data, that Compass denied home purchase and refinance applications of African-American and Hispanic borrowers more frequently than those of nonminority applicants in various Metropolitan Statistical Areas ("MSAs"). In addition, the commenter alleged that in the Houston MSA, Compass made higher-cost loans more frequently to African Americans than to nonminority borrowers.²³ The Board reviewed the HMDA

²¹ See Interagency Questions and Answers Regarding Community Reinvestment, 66 Federal Register 36,620 and 36,639 (2001).

²² Compass's other subsidiary bank, Central Bank of the South, Anniston, Alabama, engages only in providing controlled-disbursement services, and accordingly, is not evaluated under the CRA. See 12 CFR 345.11(c)(3).

²³ Beginning January 1, 2004, the HMDA data required to be reported by lenders were expanded to include pricing information for loans on which the annual percentage rate (APR) exceeds the yield for U.S. Treasury securities of comparable maturity by 3 or more percentage points for first-lien mortgages and by 5 or more percentage points for second-lien mortgages. 12 CFR 203.4.

data for 2004 that were reported by Compass Bank on a company-wide basis and for the states and MSAs in which it principally operates.

Although the HMDA data might reflect certain disparities in the rates of loan applications, originations, denials, or pricing among members of different racial or ethnic groups in certain local areas, they provide an insufficient basis by themselves on which to conclude whether or not Compass Bank is excluding or imposing higher credit costs on any racial or ethnic group on a prohibited basis. The Board recognizes that HMDA data alone, even with the recent addition of pricing information, provide only limited information about the covered loans.²⁴ HMDA data, therefore, have limitations that make them an inadequate basis, absent other information, for concluding that an institution has engaged in illegal lending discrimination.

The Board is nevertheless 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. Because of the limitations of HMDA data, the Board has considered these data carefully and taken into account other information, including examination reports that provide on-site evaluations of compliance by Compass Bank.

²⁴ 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, creditworthy. In addition, credit history problems, excessive debt levels relative to income, and high loan amounts relative to the value of the real estate collateral (reasons most frequently cited for a credit denial or higher credit cost) are not available from HMDA data.

In the fair lending review conducted in conjunction with Compass Bank's 2003 Evaluation, examiners cited failures to comply with the Board's Regulation B (Equal Credit Opportunity Act) in a nonmortgage lending program but concluded that the bank's record of complying with antidiscrimination laws generally had been sound. The Board has considered the actions that Compass Bank took since then to address the compliance failures, including immediate termination of the criticized practice when advised of examiners' concerns and revisions to its compliance policies, procedures, and training.

The Board also has considered other steps by Compass to ensure compliance with fair lending and other consumer protection laws. Compass has stated that Compass Bank's corporate compliance staff handles consumer compliance matters for the entire Compass organization. The corporate compliance staff monitors regulatory requirements, assists with and oversees implementation of compliance procedures and controls, and performs ongoing compliance risk assessments and monitoring. The corporate compliance staff also makes quarterly risk assessments available to a risk-management committee of Compass executives and to senior managers of Compass's business lines making home mortgage and consumer loans. Compass Bank's fair lending analysis includes testing to detect pricing, redlining, or underwriting issues, review of underwriting policies and practices, comparative file analysis, and analysis of HMDA data. Compass Bank also maintains a program to track and respond to consumer complaints, and the corporate compliance staff administers a web-based program to provide ongoing training to employees. Compass Bank's current compliance program will be used at the resulting bank after Compass Bank and TexasBank merge.

The Board also has considered the HMDA data in light of other information, including Compass Bank's CRA lending programs and the overall performance records of Compass Bank and TexasBank under the CRA. These established efforts demonstrate that the institutions are active in helping to meet the credit needs of their entire communities.

C. Conclusion on Convenience and Needs and CRA Performance

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 Compass, comments received on the proposal, and confidential supervisory information. The Board notes that the proposal would provide customers of TexasBank with a broader array of products and services, including expanded options for affordable mortgage loans and ATM networks. Based on a review of the entire record, and for the reasons discussed above, the Board concludes that considerations relating to the convenience and needs factor and the CRA performance records of the relevant depository institutions are consistent with approval.

As previously noted, Compass Bank also has applied under section 9 of the FRA to establish and operate branches at the locations listed in Appendix B. The Board has assessed the factors it is required to consider when reviewing an application under section 9 of the FRA and finds those factors to be consistent with approval.²⁵

Conclusion

Based on the foregoing and all facts of record, the Board has determined that the applications should be, and hereby are, approved.²⁶ In

²⁵ 12 U.S.C. section 322; 12 CFR 208.6(b).

²⁶ The commenter requested that the Board hold a public meeting or hearing on the proposal. Section 3 of the BHC Act does not require the Board to hold

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, the Bank Merger Act, and the FRA. The Board's approval is specifically conditioned on compliance by Compass and Compass Bank with the conditions imposed in this order, the commitments made to the Board in connection with the applications, and receipt of all other regulatory approvals. For purposes of this action, 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 proposed transactions 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

a public hearing on an application unless the appropriate supervisory authority for the bank to be acquired makes a timely written recommendation of denial of the application. The Board has not received such a recommendation from the appropriate supervisory authority. The Bank Merger Act and the FRA do not require the Board to hold a public meeting or hearing.

Under its rules, the Board also may, in its discretion, hold a public meeting or hearing on an application to acquire a bank if a meeting or hearing is necessary or appropriate to clarify factual issues related to the application and to provide an opportunity for testimony. 12 CFR 225.16(e). The Board has considered carefully the commenter's request in light of all the facts of record. In the Board's view, the commenter had ample opportunity to submit its views and, in fact, submitted written comments that the Board has considered carefully in acting on the proposal. The commenter's request fails to demonstrate why the written comments do not present its views adequately or why a meeting or hearing otherwise would be necessary or appropriate. For these reasons, and based on all the facts of record, the Board has determined that a public meeting or hearing is not required or warranted in this case. Accordingly, the request for a public meeting or hearing on the proposal is denied.

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,²⁷ effective March 8, 2006.

(signed)

Robert deV. Frierson
Deputy Secretary of the Board

²⁷ Voting for this action: Chairman Bernanke and Governors Bies, Olson, Kohn, Warsh, and Kroszner. Absent and not voting: Vice Chairman Ferguson.

APPENDIX A
Branches in Texas to be Established by Compass Bank

Arlington

2221 E. Lamar Blvd., Suite 110
610 West Randol Mill Road
5980 S. Cooper Street

Benbrook

9200 Benbrook Blvd.

Cleburne

1671 West Henderson Street

Colleyville

4841 Colleyville Blvd.

Crowley

816 South Crowley Road

Denton

1013 W. University Drive
729 Forth Worth Drive

Flower Mound

3212 Long Prairie Road

Fort Worth

2525 Ridgmar Blvd.
8875 Camp Bowie West
300 W. Seventh Street
2601 Hulen Street
1600 W. Rosedale Drive

Granbury

702 West Pearl Street

Grapevine

1205 South Main Street

Hudson Oaks

2817 Fort Worth Highway

Lewisville

1101 W. Main Street

Southlake

2200 W. Southlake Blvd.

Weatherford

139 College Park Drive

102 N. Main Street

1400 Santa Fe Drive

Willow Park

5171 E. I-20 Service Road N.

Appendix B
Market Data for Banking Markets in Texas

Moderately Concentrated Banking Market

Dallas

On consummation, the HHI would increase 2 points to 1426. Compass operates the fourth largest depository institution in the market, controlling deposits of approximately \$2.5 billion, which represent approximately 4 percent of market deposits. TBH operates the 21st largest depository institution in the market, controlling deposits of approximately \$423.4 million, which represent less than 1 percent of market deposits. After the proposed acquisition, Compass would remain the fourth largest depository institution in the market, controlling deposits of approximately \$2.9 billion, which represent approximately 5 percent of market deposits. One hundred and twenty-five depository institutions would remain in the banking market.

Highly Concentrated Banking Market

Fort Worth

On consummation, the HHI would increase 1 point to 4711. Compass operates the 26th largest depository institution in the market, controlling deposits of approximately \$86.8 million, which represent less than 1 percent of market deposits. TBH operates the sixth largest depository institution in the market, controlling deposits of approximately \$908.1 million, which represent approximately 2 percent of market deposits. After the proposed acquisition, Compass would operate the fifth largest depository institution in the market, controlling deposits of approximately \$994.9 million, which represent approximately 2 percent of market deposits. Fifty-eight depository institutions would remain in the banking market.