

FEDERAL RESERVE SYSTEM

Compass Bank
Birmingham, Alabama

Order Approving the Establishment of a Branch

Compass Bank, Birmingham, Alabama, a state member bank subsidiary of Banco Bilbao Vizcaya Argentaria, S.A., Bilbao, Spain, has requested the Board's approval under section 9 of the Federal Reserve Act ("FRA")¹ and the Board's Regulation H² to establish a branch at 5900 Quebec Street, Fort Worth, Texas.

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published in accordance with the Board's Rules of Procedure.³ The time for submitting comments has expired, and the Board has considered the comment on the proposal.

Compass Bank is the fifth largest depository institution in Texas, controlling approximately \$35.7 billion in deposits, which represent 4.9 percent of the

¹ 12 U.S.C. § 321. Under section 9 of the FRA, a state member bank may establish and operate branches on the same terms and conditions as are applicable to the establishment of branches by national banks. Thus, a state member bank may establish branches at any point in a state in which the bank has its main office or a branch. See 12 U.S.C. § 36(c)(2). Compass Bank has branches in Texas and is permitted to establish additional branches under Texas state law. See Tex. Fin. Code Ann. § 203.006 (permitting an out-of-state bank that has established or acquired a branch in Texas to establish or acquire additional branches in Texas to the same extent that a Texas state-chartered bank could do under state or federal law).

² 12 CFR part 208.

³ 12 CFR 262.3(b).

total amount of deposits of insured depository institutions in that state.⁴ Compass Bank's main office is in Birmingham, Alabama. Compass Bank operates a total of 676 offices in Alabama, Arizona, California, Colorado, Florida, New Mexico, and Texas.

Under section 208.6 of the Board's Regulation H,⁵ which implements section 9 of the FRA, the factors that the Board must consider in acting on branch applications include (1) the financial history and condition of the applying bank and the general character of its management; (2) the adequacy of the bank's capital and its future earnings prospects; (3) the convenience and needs of the community to be served by the branch; (4) in the case of branches with deposit-taking capability, the bank's performance under the Community Reinvestment Act ("CRA");⁶ and (5) whether the bank's investment in bank premises in establishing the branch satisfies certain criteria.⁷

The Board has considered the application in light of these factors and the public comment received on the proposal.

Financial, Managerial, and Other Supervisory Considerations

In considering the financial history and condition, earnings prospects, and capital adequacy of Compass Bank, the Board has reviewed reports of examination, other supervisory information, publicly reported and other financial information, information provided by Compass Bank, and the comment received. Compass Bank is well capitalized and would remain so on consummation of the proposal. After considering all the facts of record, the Board concludes that the financial history and condition, capital adequacy, and future earnings prospects of Compass Bank are consistent with approval of the proposal. The Board also has reviewed Compass Bank's proposed investment in the

⁴ Deposit data are as of June 30, 2015. In this context, insured depository institutions include commercial banks, savings associations, and savings banks.

⁵ 12 CFR 208.6(b).

⁶ 12 U.S.C. § 2901 et seq.

⁷ 12 CFR 208.21(a).

branch and concludes that its investment is consistent with regulatory limitations on investment in bank premises.⁸

In considering Compass Bank's managerial resources, the Board has reviewed Compass Bank's examination record, including assessments of its management, risk-management systems, and operations. The Board also has considered its supervisory experiences with Compass Bank and the bank's record of compliance with applicable banking laws, including anti-money-laundering laws. Based on this review and all the facts of record, the Board concludes that Compass Bank's management, as well as the effectiveness of Compass Bank in combatting money-laundering activities, are consistent with approval of the proposal.

Convenience and Needs Considerations

In considering the effects of the proposal on the convenience and needs of the communities to be served, the Board considers whether the relevant institution is helping to meet the credit needs of the communities it serves, as well as other potential effects of the proposal on the convenience and needs of the communities to be served.⁹ In this evaluation, the Board places particular emphasis on the record of the relevant depository institution under the CRA. 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,¹⁰ and requires the appropriate federal financial supervisory agency to assess a depository institution's record of helping to meet the credit needs of its entire community, including low- and moderate-income ("LMI") neighborhoods.¹¹

In addition, the Board considers the bank's overall compliance record and the result of recent fair lending examinations. Fair lending laws require all lending

⁸ 12 CFR 208.21(a).

⁹ 12 CFR 208.6(b)(3).

¹⁰ 12 U.S.C. § 2901(b).

¹¹ 12 U.S.C. § 2903.

institutions to provide loan applicants with equal access to credit, regardless of their race, ethnicity, or certain other characteristics. The Board also considers the assessments of other relevant supervisors, the supervisory views of examiners, other supervisory information, information provided by the applicant, and comments received on the proposal. In addition, the Board may consider the institution's business model, its marketing and outreach plans, the organization's plans after consummation, and any other information the Board deems relevant.

In assessing the convenience and needs factor in this case, the Board has considered all the facts of record, including reports of examination of the CRA performance of Compass Bank, the fair lending and compliance records of the bank, confidential supervisory information, information provided by Compass Bank, and the public comment received on the proposal. A commenter objects to the proposal, alleging that Compass Bank has engaged in discriminatory practices in Houston and Dallas, both in Texas. In particular, the commenter alleges that Compass Bank disfavors certain African American neighborhoods in Houston and Dallas and has limited its lending, marketing activities, community development activities, and branching in those neighborhoods. The commenter alleges that Compass Bank engages in "redlining" and "reverse redlining" in these areas.¹² The commenter also alleges that the branch is not permissible under supervisory guidance regarding branching by state member banks.¹³

Compass Bank denies the commenter's allegations, stating that it has implemented safeguards to prevent illegal discrimination. For instance, Compass Bank

¹² Redlining is the practice of providing unequal access to credit, or unequal terms of credit, because of the race, color, national origin, or other prohibited characteristics of the residents of the area in which a credit seeker resides or will reside or in which a property to be mortgaged is located. Reverse redlining is the practice of targeting certain borrowers or areas with less advantageous products or services based on prohibited characteristics. Office of the Comptroller of the Currency et al., *Interagency Fair Lending Examination Procedures* (August 2009), available at <https://www.ffiec.gov/pdf/fairlend.pdf>.

¹³ See SR Letter 13-7. The Board has taken into account the supervisory record of Compass Bank in considering the proposal.

has adopted a Fair and Responsible Banking Program, under which the bank conducts fair lending risk assessments and fair lending monitoring, trains staff, and provides regular reports to management and board committees that govern the bank's fair lending program. Compass Bank represents that, in 2015, the bank established a separate mortgage redlining risk assessment process, which includes a review of branch distribution, branch staffing, assessment area delineations, and application and origination monitoring within majority-minority census tracts for all assessment areas. The bank also established routine mortgage redlining monitoring. In addition, Compass Bank contends that the proposed branch, which would be located in a moderate-income census tract, would permit the bank to serve new and existing customers in LMI communities.

Record of Performance under the CRA

As indicated above, in evaluating the convenience and needs factor and CRA performance, the Board considers substantial information in addition to information provided by the commenter and the response to comments by the applicant. In particular, the Board evaluates an institution's performance in light of examinations and other supervisory information and information and views provided by the appropriate federal supervisors.¹⁴

The CRA requires that the appropriate federal financial supervisor for a depository institution prepare a written evaluation of the institution's record of meeting the credit needs of its entire community, including LMI neighborhoods.¹⁵ An institution's most recent CRA performance evaluation is a particularly important consideration in the applications process because it represents a detailed, on-site evaluation by the institution's primary federal supervisor of the institution's overall record of lending in its communities.

¹⁴ See Interagency Questions and Answers Regarding Community Reinvestment, 75 FR 11642, 11665 (March 11, 2010).

¹⁵ 12 U.S.C. § 2906.

In general, federal financial supervisors apply lending, investment, and service tests to evaluate the performance of a large insured depository institution in helping to meet the credit needs of the communities it serves. The lending test specifically evaluates the institution's home mortgage, small business, small farm, and community development lending to determine whether the institution is helping to meet the credit needs of individuals and geographies of all income levels. As part of the lending test, examiners review and analyze an institution's data reported under the Home Mortgage Disclosure Act of 1975 ("HMDA"),¹⁶ in addition to small business, small farm, and community development loan data collected and reported under the CRA regulations, to assess an institution's lending activities with respect to borrowers and geographies of different income levels. The institution's lending performance is based on (1) the number and amount of home mortgage, small business, small farm, and consumer loans (as applicable) in the institution's assessment areas; (2) the geographic distribution of such loans, including the proportion and dispersion of the institution's lending in its assessment areas and the number and amount of loans in low-, moderate-, middle-, and upper-income geographies; (3) the distribution of such loans based on borrower characteristics, including the number and amount of home mortgage loans to low-, moderate-, middle-, and upper-income individuals;¹⁷ (4) the institution's community development lending, including the number and amount of community development loans and their complexity and innovativeness; and (5) the institution's use of innovative or flexible lending practices to address the credit needs of LMI individuals and geographies.

¹⁶ 12 U.S.C. § 2801 et seq.

¹⁷ Examiners also consider the number and amount of small business and small farm loans to businesses and farms with gross annual revenues of \$1 million or less, small business and small farm loans by loan amount at origination, and consumer loans, if applicable, to low-, moderate-, middle-, and upper-income individuals. *See, e.g.*, 12 CFR 228.22(b)(3).

CRA Performance of Compass Bank

Compass Bank was assigned an overall “Satisfactory” rating¹⁸ at its most recent CRA performance evaluation by the Federal Reserve Bank of Atlanta (“Reserve Bank”), as of December 7, 2015 (“Compass Bank Evaluation”).¹⁹ Compass Bank received a “High Satisfactory” rating for both the Lending Test and the Investment Test, and a “Low Satisfactory” rating for the Service Test.²⁰

¹⁸ The commenter contends that Compass Bank’s record of performance under the CRA warrants denial of the proposal because Compass Bank received an overall “Needs to Improve” rating at its CRA performance evaluation dated October 21, 2013. In assessing the proposal, the Board considered Compass Bank’s most recent CRA performance evaluation because it represents the most up-to-date evaluation of the bank’s overall record of lending in its communities.

¹⁹ The Compass Bank Evaluation was conducted using Large Bank CRA Examination Procedures. Examiners reviewed HMDA-reportable and CRA small business lending from January 1, 2014, through December 31, 2014, except for community development loans, which were evaluated from April 1, 2013, through March 31, 2015. The evaluation period for the Investment Test and the Service Test was from April 1, 2013, through March 31, 2015.

²⁰ The Compass Bank Evaluation included a full-scope review of the bank’s assessment areas within the following areas: the Birmingham–Hoover, Alabama, Metropolitan Statistical Area (“MSA”); the Mobile, Alabama, MSA; the Phoenix–Mesa–Glendale, Arizona, MSA; the Riverside–San Bernardino–Ontario, California, MSA; the San Diego–Carlsbad–San Marcos, California, MSA; the Stockton, California, MSA; the Denver–Aurora–Broomfield, Colorado, MSA; the Jacksonville, Florida, MSA; the Albuquerque, New Mexico, MSA; the Dallas–Fort Worth–Arlington, Texas, MSA (“Dallas assessment area”); the Houston–Sugar Land–Baytown, Texas, MSA (“Houston assessment area”); the San Antonio–New Braunfels, Texas, MSA, and the assessment area comprising Val Verde and Maverick counties, both in Texas. A limited-scope review was conducted in 65 other assessment areas in Alabama, Arizona, California, Colorado, Florida, New Mexico, and Texas.

The commenter alleged that Compass Bank’s definitions of the Houston and Dallas assessment areas arbitrarily exclude African American neighborhoods in the Houston and Dallas areas. The Board’s regulations prohibit the delineation of a CRA assessment area that reflects illegal discrimination. 12 CFR 228.41(e)(2). Assessment areas generally should include entire political subdivisions. Interagency Questions and Answers Regarding Community Reinvestment, 75 FR 11642, 11666 (March 11, 2010). The Houston assessment area comprises the entirety of Austin, Brazoria, Fort Bend,

Examiners found that Compass Bank's overall lending activity in its assessment areas was good in Texas and in five other states.²¹ According to examiners, the bank's geographic distribution of loans through the assessment areas was good. Examiners also found that the bank had a good distribution of loans among borrowers of different income levels and businesses of different sizes. Examiners noted that the bank made an adequate level of community development loans during the review period. Compass Bank's community development loans were made for a variety of purposes, including providing community services targeted to LMI individuals, promoting economic development by financing small businesses, supporting affordable housing, and revitalizing or stabilizing targeted LMI census tracts.

In the Houston assessment area, an area where the commenter focused, examiners determined that Compass Bank exhibited good lending performance. The bank's geographic distribution of loans was judged to reflect good penetration throughout the assessment area. Examiners found that the bank's distribution of borrowers reflected good penetration among borrowers of different income levels and businesses of different revenue sizes. Compass Bank was found to have made a relatively high level of community development loans in the assessment area.

In the Dallas assessment area, another area of concern to the commenter, Compass Bank showed good lending performance. Examiners found that the bank's geographic distribution of loans reflected good penetration throughout the assessment area. The bank's distribution of borrowers was found by examiners to reflect excellent

Galveston, Harris, and Montgomery counties, all in Texas. The Dallas assessment area comprises the entirety of Collin, Denton, Dallas, Ellis, Hood, Johnson, Kaufman, Parker, and Tarrant counties, all in Texas. Reserve Bank examiners found that the bank's assessment areas were appropriate and offered opportunities to lend in majority-minority geographies.

²¹ Compass Bank showed good lending performance in Alabama, Arizona, Colorado, Florida, New Mexico, and Texas. Compass Bank showed adequate lending performance in California.

penetration among borrowers of different income levels and businesses of different revenue sizes. Compass Bank was found to have made an adequate level of community development loans in the assessment area.

Examiners found that Compass Bank's overall investment performance was good in Texas and Alabama and adequate in the other states in which it operates.²² A majority of Compass Bank's investments supported affordable housing. Compass Bank purchased securities backed by government-guaranteed mortgages to qualified LMI borrowers, made investments in Low Income Housing Tax Credit projects,²³ and made investments in community development financial institutions that finance affordable housing for LMI borrowers and promote economic development via small business loan funds and microfinancing. Examiners found that the majority of the bank's qualified contributions provided support for organizations engaged in community services for LMI individuals or communities, including financial counseling, youth and family programs, home repairs, health services, and job training.

In the Houston and Dallas assessment areas, examiners found that Compass Bank made a significant level of qualified investments and was in a leadership position for some of its investments. Examiners found that Compass Bank's contributions were responsive to identified community development needs in these assessment areas and included investments in projects that supported affordable housing, financial education and literacy, and small business development.

Compass Bank demonstrated good Service Test performance in Alabama and showed adequate performance in the other states in which it operates, including Texas. Examiners noted that Compass Bank's retail delivery systems were reasonably accessible to the geographies and individuals of different income levels. Examiners found that the bank's banking services and business hours did not vary in a way that

²² Compass Bank's performance in Texas had the greatest impact on its performance under the Investment Test due to the relatively high concentration of branches, deposits, and lending.

²³ See 26 U.S.C. § 42.

inconvenienced any portion of the bank's assessment areas, particularly LMI geographies and individuals. Examiners also noted that Compass Bank offered no- or low-cost deposit accounts and various alternative delivery systems. However, examiners found that Compass Bank's closing of branches adversely affected the accessibility of banking services in some assessment areas. During the review period, the bank closed 39 branches, and 10 of these branches were located in LMI census tracts.²⁴

Examiners indicated that the bank provided an adequate level of community development services throughout the bank's assessment areas. Examiners noted that the bank's employees were involved in organizations and activities that promote or facilitate affordable housing for LMI individuals; provide community services for LMI individuals, such as financial literacy education; and promote economic development and revitalization of LMI areas.

In the Houston and Dallas assessment areas, Compass Bank's performance on the Service Test was found to be adequate. In the Dallas assessment area, examiners determined that the bank's delivery systems were reasonably accessible to the bank's geographies and individuals of different income levels; however, in the Houston assessment area, the bank's delivery systems were inaccessible to portions of the bank's geographies. In the Houston and Dallas assessment areas, examiners found that Compass Bank provided relatively high and adequate levels, respectively, of community development services. The bank's community development services were judged to be responsive to identified community development needs in these assessment areas.

Additional Convenience and Needs Considerations

The Board also considers other potential effects of the proposal on the convenience and needs of the communities to be served. As noted above, the proposal would increase the availability of banking services in a moderate-income census tract.

²⁴ Compass Bank represents that it completes a full CRA and fair lending impact analysis prior to closing or consolidating any branches in accordance with its branch closing policy.

Compass Bank has represented that opening the proposed branch will increase the number of branches in LMI census tracts in this assessment area and will improve its ability to serve new and existing customers in LMI communities.

More generally, Compass Bank also developed a plan to provide \$11 billion in products and services for LMI communities over the next five years. Under this plan, the bank intends to increase investments in affordable housing, small businesses, community services, and financial education.

Conclusion on Convenience and Needs Considerations

The Board has considered all the facts of record, including the records of Compass Bank under the CRA, the bank's records of compliance with fair lending and other consumer protection laws, confidential supervisory information, information provided by Compass Bank, the public comment on the proposal, and other potential effects of the proposal on the convenience and needs of the communities to be served. Based on that review, the Board concludes that the convenience and needs factor is consistent with approval.

Conclusion

Based on the foregoing and all the facts of record, the Board determines that the application should be, and hereby is, approved. The Board's approval is specifically conditioned on Compass Bank's compliance with all the commitments made to the Board in connection with the proposal as well as all conditions imposed in this order. The conditions and commitments relied on by the Board are deemed to be conditions imposed in writing in connection with its findings and decision and, as such, may be enforced in proceedings under applicable law.

Approval of this application is also subject to the establishment of the proposed branch within one year of the date of this order, unless such period is extended by the Board or the Reserve Bank acting under authority delegated by the Board.

By order of the Board of Governors,²⁵ effective June 17, 2016.

Margaret McCloskey Shanks (signed)

Margaret McCloskey Shanks
Deputy Secretary of the Board

²⁵ Voting for this action: Chair Yellen, Vice Chairman Fischer, and Governors Tarullo, Powell, and Brainard.