

FEDERAL RESERVE SYSTEM

Compass Bancshares, Inc.
Birmingham, Alabama

Compass Bank
Birmingham, Alabama

Order Approving Acquisition of a Bank Holding Company and Merger of Banks

Compass Bancshares, Inc. (“Compass”), 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 Act (12 U.S.C. § 1842) to acquire all the voting shares of Founders Bancorp, Inc., (“Founders”), and thereby to acquire its wholly owned subsidiary, Founders Bank of Arizona (“Founders Bank”), both in Scottsdale, Arizona. Compass Bank, a subsidiary bank of Compass, also has requested the Board’s approval under section 18(c) of the Federal Deposit Insurance Act (the “Bank Merger Act”) (12 U.S.C. § 1828(c)) to merge with Founders Bank and to retain and operate branches at the at the current locations of Founders Bank’s offices as listed in Appendix A.

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (65 Federal Register 25,329 (2000)) in accordance with the Board’s Rules of Procedure (12 C.F.R. 262.3(b)). As required by the Bank Merger Act, notice of the proposal also has been published in relevant newspapers, and reports on the competitive effects of the bank merger have been requested from the United States Attorney General, the Office of the Comptroller of the Currency (“OCC”), and the Federal Deposit Insurance Corporation (“FDIC”). 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 the BHC Act and the Bank Merger Act.

Compass, with total consolidated assets of \$18.5 billion, is the forty-third largest commercial banking organization in the United States, controlling less than 1 percent of the total assets of insured commercial banks in the United States.¹ Compass operates banks in Alabama, Arizona, Colorado, Florida, New Mexico, and Texas. Compass is the sixth largest banking organization in Arizona, controlling \$1.1 billion in deposits, representing approximately 2.7 percent of total deposits in insured depository institutions in the state (“state deposits”).²

Founders is the twelfth largest banking organization in Arizona, controlling deposits of \$302.5 million, representing less than 1 percent of state deposits. After consummation of the proposal, Compass would become the fifth largest banking organization in Arizona, controlling deposits of \$1.4 billion, representing approximately 3.4 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 the bank holding company if certain conditions are met.³ For purposes of the BHC Act, the home state of Compass is Alabama,⁴

¹ All asset data are as of March 31, 2000. All deposit data are as of June 30, 1999.

² In this context, depository institutions include commercial banks, savings banks, and savings associations.

³ See 12 U.S.C. 1842(d).

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

and Compass proposes to acquire Founders Bank, in Arizona.⁵ All the conditions for an interstate acquisition enumerated 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

The BHC Act and the Bank Merger Act prohibit the Board from approving a proposal if it would result in or be in furtherance of a monopoly. These acts also prohibit the Board from approving a proposal if the effect of the proposal may be substantially to lessen competition in any relevant market unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.⁷

Compass and Founders compete directly in the Payson, Phoenix, and Prescott banking markets, all in Arizona.⁸ Consummation of the proposal would

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

⁶ Compass is adequately capitalized and adequately managed, as defined by applicable law. 12 U.S.C. § 1842(d)(1)(A). Founders Bank has been in existence and operated for more than the minimum period of time required by applicable state law. 12 U.S.C. § 1842(d)(1)(B); Ariz. Rev. Stat. Ann. § 6-324 (five years). On consummation of the proposal, Compass would control less than 10 percent of the total amount of deposits of insured depository institutions in the United States, and less than 30 percent of the deposits held by insured depository institutions in Arizona. 12 U.S.C. § 1842(d)(2); Ariz. Rev. Stat. Ann. § 6-328. All other requirements of section 3(d) of the BHC Act would be met on consummation of the proposal.

⁷ 12 U.S.C. §§ 1842(c)(1)(B) and 1828(c)(5)(B).

⁸ The Payson banking market is defined as the northwest corner of Gila County, and includes all banking offices in Payson and Pine. The Phoenix banking market

be consistent with the Department of Justice Merger Guidelines (“DOJ Guidelines”)⁹ and Board precedent in the Phoenix and Prescott banking markets.¹⁰

In the Payson banking market, Compass is the third largest of seven banking organizations, and controls deposits of \$31.7 million, representing approximately 15.9 percent of total deposits in insured depository institutions in the market (“market deposits”).¹¹ Founders is the fifth largest banking organization in the market and controls deposits of \$13.4 million, representing approximately 6.7 percent of market deposits. On consummation of the proposal,

is defined as the Phoenix-Mesa Metropolitan Statistical Area. The Prescott banking market is defined as Central Yavapai County and includes all banking offices in Chino Valley, Mayer, Prescott, and Prescott Valley.

⁹ Under the revised DOJ Guidelines, 49 Federal Register 26,823 (June 29, 1984), a market in which the post-merger Herfindahl-Hirschman Index (“HHI”) is above 1800 is 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 HHI thresholds for screening bank mergers for anticompetitive effects implicitly recognize the competitive effect of limited-purpose lenders and other nondepository financial entities.

¹⁰ The competitive effects of the proposal in these banking markets are summarized in Appendix B. The data 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 Midwest Financial Group, 75 Federal Reserve Bulletin 386 (1989); National City Corporation, 70 Federal Reserve Bulletin 743 (1984). Thus, the Board has regularly 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 (1991).

¹¹ Deposit data for this market are adjusted to include branches opened after June 30, 1999.

Compass would become the second largest banking organization in the market with deposits of \$45.1 million, representing approximately 22.6 percent of market deposits. The HHI would increase by 212 points to 2756.

In reviewing the competitive effects of this proposal, the Board has considered that several factors appear to mitigate the likely effect of the proposal on competition in the Payson banking market. Six depository institutions would remain in the market after consummation of the proposal, including four large multistate banking organizations other than Compass, and three of these organizations would each have market shares of more than 15 percent. The Payson banking market also has characteristics that make it attractive for entry. The market's population has increased 52 percent since 1990, significantly more than the 30 percent increase for Arizona as a whole. In 1999, per capita and median household income were higher in the market than in non-metropolitan statistical areas in Arizona as a whole. Since 1996, five banking organizations have entered the Payson banking market, three (including Compass Bank) by branching and two (including Founders Bank) by acquisition.¹² Two organizations have entered the market in the past year.

The Justice Department reviewed the proposal and advised the Board that consummation of the proposal would not likely have any significantly adverse competitive effects in the Payson banking market or any other relevant banking market. The FDIC and OCC have not objected to the proposal.

Based on all the facts of record, and for the reasons discussed in this order, the Board concludes that consummation of the proposal is not likely to result in any significantly adverse effects on competition or on the concentration of

¹² During this period, the market has become less concentrated as measured by the HHI.

banking resources in the Payson banking market or any other relevant market. In this light, the competitive factors are consistent with approval.

Other Considerations

The BHC Act and the Bank Merger Act require the Board, in acting on an application, to consider the financial and managerial resources and future prospects of the companies and banks involved, the convenience and needs of the communities to be served, and certain supervisory factors. The Board has reviewed these factors in light of the record, including supervisory reports of examination assessing the financial and managerial resources of the organizations and financial information provided by Compass. Based on all the facts of record, the Board concludes that the financial and managerial resources and the future prospects of Compass and Compass Bank are consistent with approval, as are the other supervisory factors the Board must consider under section 3 of the BHC Act. In addition, considerations related to the convenience and needs of the communities to be served, including the records of performance of the institutions under the Community Reinvestment Act, are consistent with approval of the proposal.

Conclusion

Based on the foregoing, and in light of all the facts of record, the Board has determined that the applications in this case should be, and hereby are, approved. The Board's approval is specifically conditioned on compliance by Compass with all the commitments made in connection with these applications. For purposes of this action, the commitments and conditions relied on by the Board in reaching its decision are deemed to be conditions imposed in writing by the Board in connection with its findings and decision and, as such, may be enforced in proceedings under applicable law.

The proposed acquisitions shall not be consummated before the fifteenth calendar day after the effective date of this order, or more 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 Atlanta, acting pursuant to delegated authority.

By order of the Board of Governors,¹³ effective June 30, 2000.

(signed)

Robert deV. Frierson
Associate Secretary of the Board

¹³ Voting for this action: Chairman Greenspan, Vice Chairman Ferguson, and Governors Kelley and Gramlich. Absent and not voting: Governor Meyer.

Appendix A

Branches of Compass Bank to be established at Founders Bank's current offices in Arizona:

1. 104 East Highway 260, Payson.
2. 21640 North 19th Avenue, Phoenix.
3. 923 East Gurley Street, Prescott.
4. 7335 East Doubletree Ranch Road, Scottsdale.
5. 15685 North Greenway-Hayden Loop, Suite 100-A, Scottsdale.
6. 23305 North Pima Road, Scottsdale.
7. 19202 R.H. Johnson Boulevard, Sun City.
8. 9915 West Bell Road, Sun City.
9. 12026 North 111th Avenue, Youngtown.

Appendix B

Summary of Market Structure

Phoenix banking market. Compass is the eleventh largest banking organization in the market, controlling deposits of approximately \$222.5 million, representing less than 1 percent of market deposits. Founders is the ninth largest banking organization in the market, controlling deposits of approximately \$281.3 million, representing 1 percent of market deposits. After consummation of the proposal, Compass would become the sixth largest banking organization in the market, controlling deposits of approximately \$503.8 million, representing 1.8 percent of market deposits. The HHI would increase by 2 points to 2282.

Prescott banking market. Compass is the ninth largest banking organization in the market, controlling deposits of approximately \$14.8 million, representing 1.5 percent of market deposits. Founders is the eleventh largest banking organization in the market, controlling deposits of approximately \$7.8 million, representing less than 1 percent of market deposits. After consummation of the proposal, Compass would become the eighth largest banking organization in the market, controlling deposits of approximately \$22.6 million, representing 2.3 percent of market deposits. The HHI would increase by 2 points to 1886.