

OFFICE OF THRIFT SUPERVISION

Order Not Objecting to Stock Repurchases Made in the First Year Following a Conversion

Order No.: 2003-08

Date: March 6, 2003

Docket No.: H-3871

Brookline Bancorp, Inc., Brookline, Massachusetts (Holding Company), has submitted a notice, pursuant to 12 C.F.R. § 563b.515, to repurchase up to 2,937,532 shares of its common stock, constituting 5.0 percent of its outstanding shares, in open market purchases for the purposes of funding the exercise of options for an existing stock option plan and to provide some liquidity for its stock. The Holding Company's subsidiary, Brookline Savings Bank, Brookline, Massachusetts (Savings Bank), and the Savings Bank's former federal mutual holding company, Brookline Bancorp, MHC, completed a mutual to stock conversion under OTS regulations on July 9, 2002. In approving the mutual to stock conversion, OTS imposed a condition requiring that following the conversion, the Holding Company would be subject to the OTS stock repurchase regulations as if it were the Savings Bank.

The OTS Mutual to Stock Conversion Regulations generally prohibit stock repurchases during the first year after a mutual to stock conversion, but provide for certain limited exceptions. In particular, OTS regulations, at 12 C.F.R. § 563.510(a)(1), provide that in extraordinary circumstances, open market repurchases of up to five percent of the stock are allowed in the first year after conversion if a notice is filed under 12 C.F.R. § 563b.515, and OTS does not disapprove the repurchase. Section 563b.515(c) states that OTS will not object to a proposed repurchase if: (i) the proposed repurchase will not adversely affect the converted institution's financial condition; (ii) the institution submits sufficient information to evaluate the proposed repurchases; (iii) the filing demonstrates extraordinary circumstances and a compelling and valid business purpose for the share repurchases; and (iv) the repurchase program is not contrary to other applicable regulations.

OTS has considered the repurchases proposed in the notice. OTS concludes that the Savings Bank's regulatory capital position will be unaffected by the repurchases, because no Savings Bank funds will be used to make the repurchases. Moreover, the Holding Company's financial condition will not be affected materially, because its shareholders' equity will decrease from 44.4 percent of assets to 43.7 percent of assets as a result of the repurchases. In addition, OTS has considered the materials submitted in connection with the filing, and concludes that sufficient information was submitted to enable OTS to evaluate the repurchases.

With respect to the third criterion, before the Savings Bank's mutual to stock conversion, it was the subsidiary of a mutual holding company, and a subsidiary mutual holding company (Mid-Tier). In 1999, the Mid-Tier established a stock option plan (SOP). Despite the elimination of the Mid-Tier in connection with the conversion of the federal mutual holding company, the SOP continues to exist, but now provides for the exercise of options in return for Holding Company common stock. The SOP has not been fully funded, and the Holding Company proposes to repurchase shares of its stock to fund such exercises.

Before the conversion, under applicable regulations, the Mid-Tier would have been permitted to make repurchases to fund the SOP. Although exceptions from the post-conversion stock repurchase restrictions for certain types of employee benefit plans exist, these exceptions do not apply to the SOP. However, the SOP was already in place at the time of the conversion, and the conversion materials made it clear that the SOP would continue to exist after the conversion. Options covering approximately 85 percent of the underlying shares had vested and were exercisable as of December 31, 2002.

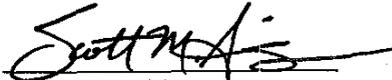
Also, on March 5, 2003, the Governor of the Commonwealth of Massachusetts signed legislation denying formerly allowable dividend received deductions, and requiring retroactive tax payments for certain investments in Real Estate Investment Trusts (REITs), in determining Massachusetts taxable income. The Holding Company estimates that the effect of the new legislation will be a payment of approximately \$5 million. The Holding Company has cited this deduction to its earnings as an "extraordinary circumstance" in its notice to OTS requesting regulatory relief from the repurchase restrictions for the purpose of providing some liquidity for its stock in response to the financial impact of this legislative change.

Based on the foregoing, OTS concludes that the Holding Company has presented compelling and valid business reasons for the repurchases, and has demonstrated that extraordinary circumstances exist.

Finally, OTS has reviewed relevant regulations, and has concluded that the proposed repurchase program is not contrary to other regulations.

Based on the foregoing, OTS does not object to the notice of the proposed repurchases.

By order of the Managing Director, Office of Supervision, OTS, effective March 6, 2003.


Scott M. Albinson
Managing Director
Office of Supervision