



**Corporate Decision #2015-03
April 2015**

March 9, 2015

John R. Cox, Esq.
Chief Legal and Strategy Officer
Dickinson Financial Corporation
1111 Main Street
Suite 1600
Kansas City, MO 64105

Re: Applications filed by Armed Forces Bank, National Association, Fort Leavenworth, KS: (1) to merge Armed Forces Bank of California, National Association, San Diego, CA with and into Armed Forces Bank, National Association and (2) for reduction of permanent capital.

Control Nos.: (1) 2014-HQ-Combination-140802 (2) 2014-HQ-Capital&Div-140915

Applications filed by Academy Bank, National Association, Colorado Springs, CO: (1) to merge Southern Commerce Bank, National Association, Tampa, FL and (2) SunBank, National Association, Phoenix, AZ with and into Academy Bank, National Association; (3) to establish de novo branch offices in Bonner Springs, KS and (4) Springfield, MO; and (5) to purchase certain assets and assume certain liabilities of Armed Forces Bank, National Association.

Control Nos.: (1) 2014-HQ-Combination-140804 (4) 2014-HQ-BranchNew-140705
(2) 2014-HQ-Combination-140806 (5) 2014-HQ-Combination-140807
(3) 2014-HQ-BranchNew-140704

Dear Mr. Cox:

The Office of the Comptroller of the Currency (OCC) hereby approves the above-referenced applications filed by Academy Bank, National Association, Colorado Springs, CO (AB) and Armed Forces Bank, National Association, Fort Leavenworth, KS (AFB). These approvals are granted after a thorough review of the applications, other materials each of the banks and its representatives supplied, and other information available to the OCC, including commitments

and representations made in the applications and by the banks' representatives during the application process.

I. Background

AB; AFB; Southern Commerce Bank, National Association, Tampa, FL (SCB); SunBank, National Association, Phoenix, AZ (SB); and Armed Forces Bank of California, National Association, San Diego, CA (AFBCA) are all national banks wholly owned by Dickinson Financial Corporation (DFC), all the common stock of which is owned by Dickinson Financial Corporation II. AB has branches in Colorado; AFB in Kansas and Missouri; SCB in Florida; and SB in Arizona. AFBCA has no branches.¹

AB and AFB have filed seven total applications to consolidate the five national banks into two. AB has filed to merge SCB and SB into AB, and AFB has filed to merge AFBCA into AFB (collectively, the Merger Transactions). AB has filed to establish new branches in Bonner Springs, KS, and Springfield, MO (collectively, the Branch Applications). AB has filed to purchase the assets and assume the liabilities, including the deposit liabilities, of 4 in-store AFB branches located in Kansas and 21 in-store AFB branches in Missouri (the P&A Transaction). Finally, AFB has filed an application to reduce its permanent capital by \$90 million and distribute the cash proceeds to DFC, which will contribute this capital to AB in conjunction with the P&A. Following the consummation of the transactions, DFC will control two national banks: AFB as a military focused bank and AB as a traditional community bank.

II. Merger Transactions

A. Legal Authority

AFB and AB have applied to the OCC for approval to acquire AFBCA and SCB and SB, respectively, pursuant to 12 U.S.C. §§ 215a-1, 1828(c) and 1831u. The home state of AFB is Kansas and the home state of AFBCA is California. The home state of AB is Colorado and the home states of SCB and SB are Florida and Arizona, respectively. Accordingly, in this transaction it is proposed that affiliated banks with different home states will merge under the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Riegle-Neal). The OCC may not approve an interstate merger if the transaction involves a bank whose home state has enacted a law between September 29, 1994 and May 31, 1997 that expressly prohibits all mergers with all out-of-state banks. None of the banks' home states have enacted such laws.

Approval of an interstate merger transaction under 12 U.S.C. § 1831u is also subject to certain requirements and conditions set forth in sections 1831u(a)(5) and 1831u(b). These conditions are: (1) compliance with state-imposed age limits, if any, subject to the Riegle-Neal limits; (2) compliance with filing requirements, including certain state filing requirements permitted by Riegle-Neal; (3) compliance with deposit concentration limits; (4) expanded community

¹ In addition to its branch network, AFB operates banking facilities under the authority of 12 U.S.C. § 90 on military installations in 17 states. AFBCA operates banking facilities under 12 U.S.C. § 90 in California.

reinvestment compliance; and (5) adequacy of capital and management skills. The OCC has determined that all the Merger Transactions satisfy applicable conditions regarding age, filing, and adequacy of capital and management skills. The requirements relating to deposit concentration limits and expanded community reinvestment analysis are inapplicable to mergers, such as this, between affiliated banks. Pursuant to 12 U.S.C. § 1831u(d)(1), the OCC also has determined that AFB may retain its main office as its main office following consummation of the merger and may retain as branches its own branches and the main office of AFBCA. Similarly, the OCC has determined that AB may retain its main office as its main office and may retain as branches its own branches and the main office and branches of SCB and SB.²

B. Bank Merger Act & Community Reinvestment Act

The Merger Transactions are also subject to OCC review under the Bank Merger Act (BMA) and the Community Reinvestment Act (CRA).

The OCC reviewed the proposed Merger Transactions under the criteria of the BMA, 12 U.S.C. § 1828(c), and applicable OCC regulations and policies. Among other matters, the OCC found that the proposed mergers would not have any anticompetitive effects. The OCC considered the financial and managerial resources of the banks, their future prospects, and the convenience and needs of the communities to be served. In addition, the BMA requires the OCC to consider “the effectiveness of any insured depository institution involved in the proposed merger transaction in combatting money laundering activities, including in overseas branches.” 12 U.S.C. § 1828(c)(11). The OCC considered these factors and found them consistent with approval of the applications.³

The CRA requires the OCC to take into account the applicants’ records of helping to meet the credit needs of the community, including low- and moderate-income (LMI) neighborhoods, when evaluating certain applications, including transactions subject to the BMA. 12 U.S.C. § 2903; 12 C.F.R. § 25.29. The OCC considered the CRA performance evaluation of each institution involved in the transactions. A review of the records of these applicants and other information available to the OCC as a result of its regulatory responsibilities revealed no evidence that the applicants’ record of helping to meet the credit needs of their communities, including LMI neighborhoods, is inconsistent with approval.

² AB has provided notice to the OCC, in accordance with 12 U.S.C. 1831r-1, that it intends to close three of its existing in-store branches located in Colorado (Avon Branch, Montrose Branch, and Sterling Branch) in 2015.

³ The Dodd–Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376, 1608 (2010), added a new provision to the Bank Merger Act under which the responsible agency may not approve any interstate merger transaction that results in the resulting insured depository institution controlling more than 10% of the total amount of deposits of insured depository institutions in the United States. *See* 12 U.S.C. § 1828(c)(13). However, it does not apply to mergers between affiliates. In addition, AFB, AB, and their affiliates will not control more than 10% of the deposits in the United States.

III. Branch Applications

AB has applied to establish de novo interstate branches in Bonner Springs, KS, and Springfield, MO. Under 12 U.S.C. § 36(g), as amended by section 613(a) of the Dodd–Frank Wall Street Reform and Consumer Protection Act,⁴ a national bank may

establish and operate a de novo branch in a State (other than the bank’s home State) in which the bank does not maintain a branch if –

(A) the law of the State in which the branch is located, or is to be located, would permit establishment of the branch, if the national bank were a State bank chartered by such State

12 U.S.C. § 36(g)(1)(A). Both Kansas and Missouri permit their state chartered banks to establish branches within the state without geographic limitation. *See* Kan. Stat. Ann. § 9-1111; Mo. Rev. Stat. §§ 361.230 362.107.

Establishment of an interstate branch under 12 U.S.C. § 36(g) is also subject to certain conditions under 12 U.S.C. § 36(g)(1)(B), (2). These conditions are (1) compliance with filing requirements, including certain state filing requirements permitted by Riegle-Neal; (2) expanded community reinvestment compliance; and (3) adequacy of capital and management skills. The OCC has determined that the Branch Applications satisfy applicable conditions regarding filing and capital and management skills. The expanded community reinvestment analysis is inapplicable because AFB has branches in both Kansas and Missouri.

IV. P&A Transaction

A. Legal Authority

AB applied to the OCC for approval to purchase certain assets and assume certain liabilities of AFB in connection with the acquisition of 4 in-store branches located in Kansas and 21 in-store branches located in Missouri. National banks have long been authorized to purchase bank-permissible assets and assume bank-permissible liabilities from other institutions, including the deposit liabilities of other institutions, as part of their general banking powers under 12 U.S.C. § 24(Seventh).⁵

Additional authority is required for AB to acquire and operate the branches. Once AB has established interstate branches in Kansas and Missouri, it may establish additional branches within those states as interstate branches. A Kansas state bank could establish additional branches at the locations of the Kansas branches that AB will acquire. Likewise, a Missouri state bank could establish additional branches at the locations of the Missouri branches that AB will acquire. Accordingly, AB may operate as branches the 25 in-store branches to be acquired as part of the P&A Transaction.

⁴ Pub. L. No. 111-203, 124 Stat. 1376, 1614 (2010).

⁵ *See, e.g., City National Bank of Huron v. Fuller*, 52 F.2d, 870, 872-73 (8th Cir. 1931); *In re Cleveland Savings Society*, 192 N.E.2d 518, 523-24 (Ohio Com. Pl. 1961).

B. Bank Merger Act & Community Reinvestment Act

The P&A Transaction is also subject to OCC review under the BMA and the CRA. The OCC reviewed the proposed P&A Transaction under the criteria of the Bank Merger Act, 12 U.S.C. § 1828(c), and applicable OCC regulations and policies. Among other matters, the OCC found that the proposed transaction would not have any anticompetitive effects. The OCC considered the financial and managerial resources of AB, its future prospects, and the convenience and needs of the communities to be served. In addition, the BMA requires the OCC to consider “the effectiveness of any insured depository institution involved in the proposed merger transaction in combatting money laundering activities, including in overseas branches.” 12 U.S.C. § 1828(c)(11). The OCC considered these factors and found them consistent with approval of this application.⁶

The CRA requires the OCC to take into account the applicants’ records of helping to meet the credit needs of the community, including LMI neighborhoods, when evaluating certain applications, including transactions subject to the BMA. 12 U.S.C. § 2903; 12 C.F.R. § 25.29. The OCC considered the CRA performance evaluation of each institution involved in the P&A Transaction. A review of the records of these applicants and other information available to the OCC as a result of its regulatory responsibilities revealed no evidence that the applicants’ record of helping to meet the credit needs of their communities, including LMI neighborhoods, is inconsistent with approval.

V. Reduction in Permanent Capital

AFB has applied to reduce its permanent capital by \$90 million, which it will distribute as cash to DFC. DFC will then make an immediate cash contribution of the \$90 million to AB in connection with the P&A Transaction.

The OCC has reviewed the proposed reduction in permanent capital under 12 U.S.C. § 59 and 12 C.F.R. § 5.46(h), (i). The OCC has determined that the reduction in capital is consistent with sections 59 and 5.46, safety and soundness, and OCC policy.

VI. Consummation Requirements

With respect to the Merger Transactions and the P&A Transaction, please ensure that AB and AFB have submitted executed merger agreements and, if necessary, the amended Articles of Association for the resulting banks prior to the desired consummation date.

Pursuant to 12 U.S.C. § 59, AFB’s reduction in capital requires approval by shareholders owning at least two-thirds of the AFB’s capital stock. AB’s increase in permanent capital is subject to the notice requirement of 12 C.F.R. § 5.46(g), (i). In addition, prior to completion of this reduction in capital, AFB’s holding company, DFC, must receive approval from the Federal Reserve Bank of Kansas City to receive a cash distribution from AFB.

⁶ Because AB and AFB are affiliates, the 10% nationwide deposit limit of 1828(c)(13) is inapplicable. *See supra* footnote 3. In addition, AFB, AB, and their affiliates will not control more than 10% of the deposits in the United States.

VII. Conclusion

These approvals are granted based on the OCC's understanding that any other applicable regulatory approvals, non-objections, or waivers with respect to the proposed transactions, including those related to retention of military banking facilities, will have been received prior to the consummation of the transactions.

If the transactions have not been consummated within twelve months from the approval date, the approval will automatically terminate unless the OCC grants an extension of time.

These approvals, and the activities and communications by OCC employees in connection with the filing, do not constitute a contract, express or implied, or any other obligation binding upon the OCC, the United States, any agency or entity of the United States, or any officer or employee of the United States, and do not affect the ability of the OCC to exercise its supervisory, regulatory, and examination authorities under applicable law and regulations. The OCC may modify, suspend, or rescind this decision if a material change in the information on which the OCC relied occurs prior to the date of the transaction to which this decision pertains. The foregoing may not be waived or modified by any employee or agent of the OCC or the United States.

All correspondence regarding these applications should reference the OCC control numbers. If you have any questions, please contact Senior Licensing Analyst Stephanie N. Moss at (202) 649-7243 or by email at Stephanie.Moss@occ.treas.gov.

Sincerely,

signed

Beverly L. Evans
Director for Licensing Activities