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## Decision of October 25, 2001

# Decision relative to the petition of Banknorth Group, Inc., Portland, Maine to acquire Andover Bancorp, Inc., Andover, Massachusetts

By the [Division of Banks](#)

Banknorth Group, Inc. (the "Petitioner" or "Banknorth"), Portland, Maine has petitioned the Board of Bank Incorporation (the "Board") pursuant to Massachusetts General Laws chapter 167A, sections 2 and 4 to acquire Andover Bancorp, Inc. ("Andover Bancorp"), Andover, Massachusetts and its subsidiary banking institutions, Andover Bank ("Andover"), Andover, Massachusetts and Gloucester Bank & Trust Company ("Gloucester"), Gloucester, Massachusetts. Banknorth and Andover Bancorp are both bank holding companies. The Petitioner is a multi-bank holding company whose Massachusetts banking subsidiary is First Massachusetts Bank, National Association ("First Massachusetts"), Worcester, Massachusetts. The application before the Board is part of a multi-step transaction involving the merger of Andover and Gloucester with and into First Massachusetts. At the conclusion of the transaction, Banknorth will have one Massachusetts subsidiary, First Massachusetts and the charters of Andover and Gloucester will cease to exist.

Notice of the application was published and posted as directed by the Board, thereby affording opportunity for interested parties to submit comments. Other standard procedures informing the public of this matter before the Board were implemented. The Board held a public hearing on the petition of Banknorth on October 10, 2001. The comment period on the proposed transaction ended October 19, 2001.

The Board has reviewed the application and oral testimony received at the public hearing. That review focused on the statutory and administrative criteria which includes, among other things, whether competition among banking institutions will be unreasonably affected; whether public convenience and advantage would be promoted; and the record of performance under the Community Reinvestment Act ("CRA") by the involved subsidiary banks. The additional statutory requirements set out in sections 2 and 4 of said chapter 167A were also significant factors in the Board's deliberations on the matter before it. All such requirements are specifically addressed in the application documents.

One such statutory provision requires the Board to have received notice from the Massachusetts Housing Partnership Fund (the "MHPF") that satisfactory arrangements have been made by the Petitioner consistent with statute and the MHPF's various affordable housing loan programs. In the application documents, the Petitioner informed the Board of its contact with the MHPF in order to meet this requirement. The Board received notice from the MHPF that arrangements satisfactory to it had been made for this transaction in a letter dated October 10, 2001.

As an interstate transaction, the reciprocity laws of Banknorth's home state must be reviewed. Banknorth's home state for determination of applicable law is Maine. Under Massachusetts law, the determination of the reciprocity of the laws of another state rests solely with the Commissioner of Banks. The Commissioner has previously ruled that Maine law is reciprocal and does expressly

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authorize a similar transaction by a Massachusetts holding company under conditions no more restrictive than those imposed by said chapter 167A. Accordingly, the proposed transaction is permissible under the Commonwealth's Interstate Banking Act and, therefore, the Board will proceed to consider whether other statutory requirements are met by this application.

In reviewing the application, the Board has recognized that a separate transaction involving the Petitioner is pending before it. Banknorth has also filed an application to acquire MetroWest Bank, Framingham, Massachusetts. The public hearings on each transaction were held by the Board on the same day. The Board's analysis of each application has considered the ramifications of both transactions on the Petitioner.

Banknorth is a multi-bank holding company with eight wholly owned banking subsidiaries, including its Massachusetts bank subsidiary, First Massachusetts. As of June 30, 2001, Banknorth had total assets of \$18.1 billion. It offers a broad range of commercial and consumer banking services and products as well as trust, investment advisory and insurance brokerage services through its subsidiaries.

Andover Bancorp is a bank holding company with two subsidiary banking institutions, Andover and Gloucester. As of March 31, 2001, Andover Bancorp had consolidated assets of \$1.799 billion. Andover Bank operates thirteen branch offices in the Massachusetts town of Andover, Lawrence, Methuen, North Andover and Tewksbury; and in the New Hampshire towns of Derry, Londonderry and Salem. Andover Bank provides a full array of consumer and commercial banking services. Gloucester conducts a general commercial banking business from its two offices in Gloucester, Massachusetts.

Pursuant to the Agreement and Plan of Merger dated June 11, 2001, the transaction will be financed through the issuance of Banknorth common stock with each outstanding share of common stock of Andover Bancorp receiving 2.27 shares of Banknorth common stock plus cash in lieu of fractional shares.

The Petitioner has submitted materials to address the issue that competition among banks will not be unreasonably affected by the proposed transaction. Much of that analysis is detailed according to various tests used by federal agencies. The analysis demonstrates that consummation of the transaction will not result in undue concentration of banking resources in the specified banking markets in Massachusetts. Traditionally, however, this Board has not limited its review to those previously cited federal standards in its consideration of whether competition will be unreasonably affected. Rather it is the position of this Board to consider a transaction in light of its impact on the citizens, communities and banking structure in the Commonwealth on a community by community basis instead of by variously grouped markets. The Board has noted that the overlap in the banking office networks of the subsidiary banks involved in this transaction is limited to one community, Andover, and the market share of the Petitioner's Massachusetts subsidiary will only amount to three percent of all deposits in the Boston Banking Market after the consummation of this transaction as well as its acquisition of MetroWest Bank. At the public hearing, it was stated First Massachusetts' Andover branch office will be consolidated into a banking office of Andover Bank in the same vicinity. Upon review, the Board does not believe the transaction will unreasonably affect competition for the reasons cited as well as the fact that a number of diverse bank and financial institutions will continue to provide competitive deposit and credit services in the affected areas.

The Board has considered whether public convenience and advantage will be promoted by this proposed transaction. The acquisition of Andover Bancorp and the subsequent merger of its subsidiary banks will, according to the application, enhance the ability of the Petitioner's continuing bank subsidiary to better serve the public and the communities in which it operates. It will provide the Petitioner a statewide banking presence from the Merrimack Valley to the Berkshires. The application and the testimony at the public hearing cited several benefits which will result from the transaction. Such benefits include, among other things, additional convenience through increased branch offices and ATM machines, a higher loan to one borrower limit, the Petitioner's Simply Free Checking account and No Catch CD and a wider variety of competitive and innovative products and services set out in the submitted documents. It was also stated that the trust and investment management services conducted by Banknorth will be available in the communities now served by Andover Bancorp. Testimony at the public hearing emphasized the need for such trust services to be conveniently available. Moreover, the mortgage lending services of Banknorth, particularly its government loan programs, including FHA, VA and Rural Housing as well as the Massachusetts Housing Partnership Soft Second Program, combined with that of Andover Bancorp will place the continuing bank in a strong position to meet the residential mortgage needs of consumers throughout the service area. Banknorth has also indicated that First Massachusetts will join the surcharge-free SUM Network for ATM transactions. The Board's review of factors related to public convenience and advantage support approval of the application.

Related to the issue of public convenience and advantage is the record of performance under the CRA by the subsidiary banks which are the parties to this transaction. Such a review for a state-chartered bank includes examination by personnel of the Board as well as analysis of concerns received by the bank's community and its response to those concerns fairly raised. For other institutions, the Board looks to a publicly available descriptive rating and evaluation by a federal or state bank regulatory agency. The matter was specifically addressed at the public hearing. The Board has noted that the Petitioner's subsidiary bank, First Massachusetts has a "Satisfactory" rating in its most recent examination of performance under CRA by the Office of the Comptroller of the Currency. The Board has noted that both Andover and Gloucester have "Outstanding" ratings in examinations conducted by the Division of Banks. The Board's review of factors related to public convenience and advantage are consistent with approval.

The Board has considered the Petitioner's analysis of "net new benefits" related to the transaction. The term includes initial capital investments, job creation plans, consumer and business services, and commitments to maintain and open branch offices, among other factors. The Petitioner has addressed this requirement. According to the Petitioner, the acquisition will enhance the continuing bank's financial capability to invest in the community it serves and to develop new products and services for its customers. The maintenance of all of Andover's and Gloucester's banking offices as branch offices of the continuing bank as well as Banknorth's ability to provide future employment opportunities for Massachusetts residents are also cited as support for meeting such criteria. Moreover, the larger subsidiary banking institution will have the financial resources available to develop new products, services and branch office locations as conditions warrant.

The financial aspects and any tax consequences from the structure of the transaction were also considered by the Board. Management factors reviewed were also found supportive of approval. Additionally, all other requirements of statute relating to a bank holding company have been met.

The application and supporting documents and the comments received at the public hearing have established an extensive record on this petition, which has been reviewed consistent with statutory provisions and the policies of the Board. Based on the record of this matter considered in light of all relevant statutory and administrative requirements, the Board finds that public convenience and advantage will be promoted and that competition among banking institutions will not be unreasonably affected and that the record of performance under CRA by the subsidiary banks involved in this transaction are consistent with its approval. Having considered the record established on this application, the Board has found that the applicable statutory and administrative criteria have been met.

In accordance with the findings expressed herein and pursuant to statute, the Board hereby approves the petition and authorizes Banknorth to acquire Andover Bancorp and its banking subsidiaries, Andover and Gloucester provided that the transaction is completed within one year of the date of this Decision.

Thomas J. Curry

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Commissioner of Banks

Bernard F. Crowley, Jr.

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Acting Commissioner of  
Revenue

Board  
of Bank  
Incorporation

Shannon P. O'Brien

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Treasurer and Receiver-  
General

October 25, 2001

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Date

