



DECISION

Decision of March 2, 2018

DATE:

03/02/2018

ORGANIZATION:

Division of Banks

Petitioner: Fidelity Co-operative Bank**Respondent:** Division of Banks

Decision relative to the merger of Colonial Co-operative Bank, Gardner, Massachusetts with and into Fidelity Co-operative Bank, Fitchburg, Massachusetts

Fidelity Co-operative Bank (Petitioner or Fidelity), Fitchburg, Massachusetts has applied to the Division of Banks (Division) to merge with Colonial Co-operative Bank (Colonial), Gardner, Massachusetts pursuant to the provisions of Massachusetts General Laws chapter 167H, section 7, clause (2), as well as Massachusetts General Laws chapter 167I, section 4. Under the terms of the Merger Agreement and Plan of Merger (Merger Agreement) dated as of September 12, 2017, Colonial will merge with and into Fidelity under the charter, by-laws and name of Fidelity (Continuing Institution). All of the banking offices of

Colonial will be retained after the merger. Life Design Holding Company is the holding company for Fidelity (Mid-Tier). Life Design Holding Company's parent is Fidelity Mutual Holding Company (MHC). Although Colonial is in mutual form and Fidelity is in stock form, the transaction is authorized under Massachusetts General Laws chapter 167H, section 7, clause (2) since MHC is a mutual holding company and Fidelity is its subsidiary banking institution.

Legal and Procedural Requirements

Notice of the Petitioner's application was posted and published as directed by the Division thereby affording opportunity for interested parties to submit comments. The period for filing comments has expired, and no comments were received. The Division reviewed the application and supplementary materials in accordance with the statutory criteria of whether competition among banking institutions will be unreasonably affected and whether public convenience and advantage as well as net new benefits would be promoted by approval of the proposed transaction. Both banks' records of performance under the Commonwealth's Community Reinvestment Act (CRA), Massachusetts General Laws chapter 167, section 14 and the Division's regulation, 209 CMR 46.00 *et seq.* also were factors considered by the Division. In addition, The Co-operative Central Bank confirmed by letter dated October 27, 2017 that satisfactory arrangements have been made in connection with the merger relative to providing excess deposit insurance for deposits of the Continuing Institution.

The Parties

Fidelity was chartered as a Massachusetts mutual co-operative bank in 1888. It reorganized into the mutual holding company form of organization in 2006 after receiving the required approvals from the Division and the Massachusetts Board of Bank Incorporation. As mentioned above, Fidelity is a wholly-owned subsidiary of Life Design Holding Company, a Massachusetts corporation, which is a wholly-owned subsidiary of Fidelity Mutual Holding Company, a Massachusetts mutual holding company. As of December 31, 2017, Fidelity had total assets of approximately \$819.6 million and total deposits of approximately \$700 million. In addition to its main office in Fitchburg, Massachusetts, Fidelity operates 9 full-service branch offices in Barre, Gardner, Leominster (2), Millbury, Paxton, Princeton and Worcester in Worcester County, and in Shirley in Middlesex County. Fidelity has eight wholly-owned subsidiaries, FCB Security Corporation, Inc., Shirley Securities Inc., Exchange Parking Series LLC, Exchange Authority LLC, Nashaway Realty LLC, M3S LLC, Hayes-Barrett Investments LLC and Hayes-Barrett Insurance LLC. Fidelity's deposits are insured up to allowable limits by the Federal Deposit Insurance Corporation (FDIC) and amounts in excess of FDIC insurance are insured by the Share Insurance Fund of The Co-operative Central Bank (Share Insurance Fund).

Colonial is a Massachusetts mutual co-operative bank that was chartered in 1891. As of December 31, 2017, it had total assets of approximately \$66.8 million and total deposits of approximately \$61.1 million.

In addition to its main office in Gardner, Colonial also operates one full service branch office in Winchendon, Massachusetts. Its deposits are insured up to allowable limits by the FDIC and by the Share Insurance Fund for amounts in excess of the FDIC's insurance limits.

As set forth in the application, the banking offices of Colonial will be operated under the trade name "Fidelity Bank, The Colonial Bank Division" for a minimum of two years after the effective date of the proposed merger (Effective Date).

Competition

Materials have been submitted to address the issue that competition among banks will not be unreasonably affected by the proposed transaction. In analyzing the impact of a proposed transaction on banking competition, the Division considers, but does not rely exclusively upon, the guidelines used by federal authorities to review bank mergers. Essentially, these guidelines define relevant markets and measure concentration, which is considered an important indicator of competitiveness. The starting point in the federal analysis is the Herfindahl-Hirschman Index (HHI), an arithmetic measure of market concentration that synthesizes the distribution of market shares and the number of banks in an affected market into a single value. In this case, there will be a negligible impact on the HHI for the geographical areas analyzed. In addition to that analysis, the Division considers the competitive impact of the proposed transaction on a community-by-community basis, as well as on the overall banking structure of the Commonwealth. Although both Fidelity and Colonial maintain a banking office in Gardner, it is noted in the materials submitted that there are other offices of financial institutions in the community. Accordingly, the review of the transaction's impact on competition does not raise concerns which would preclude its approval.

Public Convenience and Advantage

The Division has also considered the record of this application to determine whether public convenience and advantage will be promoted. Under the proposed merger, the Petitioner states it does not expect to eliminate or reduce any of the products, services or delivery channels currently operated by either Bank. The Petitioner also states that the Continuing Institution will be able to offer a broader array of products and services with more robust features than those currently available to Colonial customers. These products include enhanced business cash management services, business and consumer insurance and Fidelity's "LifeDesign Banking" approach. Additionally, customers of both banks will benefit from the larger lending limit available through the combined institution and through an expanded network of banking offices. The Division considered these reasons and others cited in the submitted documents in determining that public convenience and advantage will be promoted by approval of this transaction.

In determining whether or not to approve a petition under the statutory criteria, the Commissioner is also required to consider a showing of “net new benefits” related to the transaction. That term includes initial capital investments, job creation plans, consumer and business services and commitments to maintain and open branch offices, among other factors, which the Commissioner may deem necessary. The Petitioner has addressed this requirement of statute. Capital investments associated with the merger will include new signage and planned branch improvements. With regard to employment, although there will be some loss of jobs, the Continuing Institution anticipates future growth which will lead to additional job creation. As described above, the Continuing Institution will offer a broader array of products and services to Colonial customers. Accordingly, the Division has reviewed factors related to public convenience and advantage, as well as net new benefits, and has determined that they are consistent with approval of the Petitioner’s application.

Related to the issue of public convenience and advantage is the record of performance under the CRA by the banks which are parties to this transaction. Such review for state-chartered banks includes examination by personnel of the Division. A publicly available descriptive rating and evaluation by a federal bank regulatory agency will also be considered. Fidelity received a “Satisfactory” rating in the most recent CRA performance evaluation conducted jointly by the Division and the FDIC as of September 28, 2015, and Colonial received a “Satisfactory” rating in its most recent CRA performance evaluation conducted jointly by the Division and the FDIC as of October 19, 2015. In addition, under the terms of the Merger Agreement, the Continuing Institution has committed to continue Colonial’s support of charitable organizations and causes in the communities served by Colonial by establishing a charitable fund in Colonial’s name to provide support to civic and charitable organizations and causes in the Greater Gardner/Winchendon community.

With regard to the branch offices of the Continuing Institution, due to the close proximity of the branch offices of the two banks in Gardner, Fidelity anticipates that it will petition the Division to close its Gardner branch office within six months of the Effective Date. Customers of the Continuing Institution would have access to the remaining full-service branches.

Financial and Managerial Considerations

The Division also reviews and considers the financial and managerial aspects of the proposed transaction. Materials provided indicate that the Continuing Institution will meet all regulatory capital requirements upon consummation of the proposed merger.

In terms of the Board of Directors and management, the application states that the current directors and officers of Fidelity, the Mid-Tier and the MHC will remain directors and officers of Fidelity, of the Mid-Tier and the MHC immediately after the merger. As set forth in the materials submitted in connection with the merger application, it is anticipated that two directors of Colonial (the Colonial Directors) will become

directors of MHC at the next annual or special meeting of the incorporators of the MHC, which must be held not later than April 30, 2018. It is further anticipated that the Colonial Directors will become directors of Fidelity and the Mid-Tier as of the Effective Date under the terms of the Merger Agreement. Materials submitted with regard to senior management indicate that the Continuing Institution will consist of current executives from each bank. Accordingly, upon review, financial and managerial considerations support the application.

Conclusion

Upon review of the complete record of the application with reference to the relevant statutory and regulatory requirements, this Division has concluded that all such requirements have been met, and that the consummation of the proposed transaction would be in the public interest. On the basis of these considerations, and subject to the conditions set forth below, approval is granted to merge Colonial with and into Fidelity under the charter, by-laws and name of Fidelity Co-operative Bank, under the provisions of said clause (2) of section 7 of chapter 167H, and said section 4 of chapter 167I of the General Laws. Upon consummation of the merger, the charter of Colonial will cease to exist and the separate existence of Colonial shall cease and all of the rights, privileges, powers, franchises, properties, assets, liabilities and obligations of Colonial shall be vested in and assumed by Fidelity. Approval is also granted for Fidelity to maintain the main office and branch office of Colonial as branch offices.

The approval granted herein is subject to the following conditions:

1. That the proposed merger shall not become effective until a Certificate signed by the Presidents and Clerks, or other duly authorized officers of each bank, indicating that each institution has complied with the provisions of Massachusetts General Laws chapter 167H, section 7, clause (2) and chapter 167I, section 4 has been returned for my endorsement thereon;
2. That the proposed merger shall not become effective until Articles of Merger with my endorsement thereon are filed with the Secretary of State; and
3. That the proposed merger shall be consummated within one year of the date of this Decision.

Terence A. McGinnis

Commissioner of Banks

March 2, 2018

