

## OFFICE OF THRIFT SUPERVISION

### Approval Of An Application Requesting Exemption Under The Depository Institution Management Interlocks Regulations

**Order No.:** 2007-37  
**Date:** August 10, 2007  
**Docket Nos.:** H-0299, 04072,

The Office of Thrift Supervision (OTS) has reviewed an application (Application) requesting an exemption under the Depository Institution Management Interlocks Act (Act) and 12 C.F.R. § 563f.6(a) of OTS's management interlocks regulations on behalf of for Ms. Anat Bird (Individual), regarding the Individual's proposed service as a director of AmTrust Bank (AmTrust) and its parent, Ohio Savings Financial Corporation (Ohio), both of Cleveland, Ohio, while serving as a Director at: Sun National Bank and its holding company, Sun Bancorp, Inc. (together, Sun), both of Vineland, New Jersey; Sterling Bank and its holding company, Sterling Bancshares, Inc. (together, Sterling), both of Houston, Texas; First Indiana Bank, N.A. and its holding company, First Indiana Corporation (together, First Indiana), both of Indianapolis, Indiana; and Midfirst Bank (Midfirst), Oklahoma City, Oklahoma.

The Individual is currently serving as a director of Sun, Sterling, First Indiana and Midfirst (collectively, the Organizations) and proposes to join the boards of directors of AmTrust and Ohio. The Act and 12 C.F.R. § 563f.3(c) bar a management official of a depository organization (or any affiliate thereof) from simultaneously serving as a management official of an unaffiliated depository organization (or any affiliate thereof), regardless of where the depository organizations are located, if one of the depository organizations in question has total assets in excess of \$2.5 billion and the other depository organization has total assets in excess of \$1.5 billion. AmTrust's total assets exceed \$2.5 billion, and each of the Organizations' total assets exceeds \$1.5 billion.

Pursuant to section 563f.6(a), OTS may grant an exemption for an otherwise prohibited interlock if it determines that the interlock would not result in a monopoly or substantial lessening of competition, or threaten safety and soundness. In order to determine whether the proposed interlock has a proscribed effect, OTS examines the competition in deposit products in appropriate geographic markets using the Department of Justice Guidelines (DOJ Guidelines) for reviewing horizontal mergers.<sup>1</sup>

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<sup>1</sup> See 1992 Horizontal Merger Guidelines [with April 8, 1997, Revisions to Section 4 on Efficiencies] (<http://www.ftc.gov/bc/docs/horizmer.htm>).

Generally, competition for insured deposits is locally focused. However, we have concluded that with respect to most lending and other financial products, insured depository institutions compete in national markets that are usually less concentrated than the local markets in which banking institutions compete for insured deposits. Therefore, analyzing the competition for deposits and using the results of that analysis to determine concentration in those other product markets will tend to overstate the market shares of the particular institutions being examined in such non-deposit product markets. Such analysis tends to produce more conservative results than would analysis of the market shares of the institutions in each of the relevant product markets and in a national geographic market.<sup>2</sup> Accordingly, at least so long as our analysis of concentration in the relevant deposit markets concludes that a proposed interlock will not have a significant adverse effect on the competition for deposits, we generally do not separately analyze concentration in each lending and financial services product market.<sup>3</sup>

Although AmTrust offers deposit products in several geographic markets, the only geographic market in which it competes with any of the Organizations is in the Phoenix-Mesa-Scottsdale, Arizona, Metropolitan Statistical Area (Phoenix MSA), where AmTrust engages in direct competition for deposits with Midfirst.

A hypothetical merger between AmTrust and Midfirst in the Phoenix MSA would increase the Herfindahl-Hirschman Index (HHI) for their combined share of deposits by less than 1 point. Such an increase is deemed to show a competitively insignificant increase in concentration under the DOJ Guidelines. Accordingly, we conclude that the proposed interlock is not likely to have an adverse effect on competition for deposit products in the Phoenix MSA market. Therefore, the proposed interlock between AmTrust and Midfirst would not result in a monopoly or substantial lessening of competition for deposits in any geographic market in the United States. Because they do not compete in any local deposit market, the proposed interlocks between AmTrust and Sun, Sterling and First Indiana present no measurable effect on competition for deposits in any geographic market in the United States.

OTS has evaluated the proposed interlocks from a supervisory perspective, and has concluded that the interlocks will not present safety and soundness concerns.

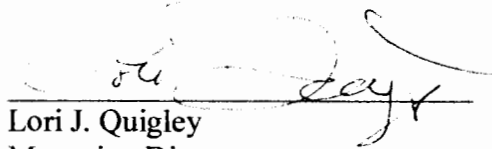
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<sup>2</sup> Measuring the competitive effects of an interlock by analyzing the market for insured deposits is consistent with the practices of the other agencies administering the Act, and with OTS's reviews of competitive considerations under other statutes employing similar language.

<sup>3</sup> The market for consumer loans may be local. Nevertheless, it appears that the geographic market for consumer lending is at least as broad as the market for deposit products and it is likely to have the same or more competitors. We conclude that a separate analysis of consumer lending in such markets is not necessary to determine if an interlock will have a proscribed effect.

Based on the Application and the foregoing analysis, OTS concludes that the Individual's proposed service as a director of Ohio and AmTrust while serving on the boards of directors of the Organizations meets the applicable approval criteria. Accordingly, the Application is hereby approved.

By order of the Director of the Office of Thrift Supervision, or his designee, effective August 10, 2007.

A handwritten signature in black ink, appearing to read "Lori J. Quigley", is written over a horizontal line.

Lori J. Quigley  
Managing Director  
Examinations and Supervision - Operations