



**Comptroller of the Currency
Administrator of National Banks**

Washington, D.C.

September 25, 2008

Kathryn V. McCulloch
Senior Vice President and
Associate General Counsel
JPMorgan Chase & Co.
277 Park Avenue, 19th Floor
New York, NY 10172

Re: Applications for JPMorgan Chase Bank, National Association, Columbus, Ohio ("JPMCB"), to Acquire Assets and Liabilities from Washington Mutual Bank, Henderson, Nevada ("WMB"), and to Merge Washington Mutual Bank FSB, Park City, Utah ("WMB/FSB"), a subsidiary of WMB, into JPMCB; and for Chase USA, National Association, Newark, Delaware, to Acquire from JPMCB Certain of the Assets and Liabilities that JPMCB Acquired from WMB
Application Control Numbers: 2008-ML-02-0011, 0012, 0013

Dear Ms. McCulloch:

The Office of the Comptroller of the Currency ("OCC"), for the reasons discussed below, hereby approves the applications (1) of JPMorgan Chase Bank, National Association, Columbus, Ohio ("JPMCB"), to (a) acquire assets and liabilities from Washington Mutual Bank, Henderson, Nevada ("WMB"), and (b) to acquire by merger Washington Mutual Bank FSB, Park City, Utah ("WMB/FSB"), a subsidiary of WMB; and (2) of Chase USA, National Association, Newark, Delaware (CUSA), to acquire from JPMCB certain of the assets and liabilities related to the credit card accounts acquired by JPMCB from WMB. This approval is granted following review of the application, other materials you have supplied, and other information available to the OCC, including commitments and representations made in the application and by representatives of JPMCB and CUSA during the application process. As discussed below, the transactions may be consummated immediately upon approval.

PROPOSAL

WMB, a federal savings bank with deposits insured by the Federal Deposit Insurance Corporation ("FDIC"), was closed by the Office of Thrift Supervision on September 25, 2008, and the FDIC was appointed as receiver. The FDIC sought bids from potential acquirers to

acquire WMB, including its subsidiary WMB/FSB. JPMCB was the winning bidder. WMB has branches in Arizona, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Nevada, New Jersey, New York, Oregon, Texas, Utah and Washington. WMB/FSB is a federal savings bank with deposits insured by the FDIC and branches in Utah and Idaho. JPMCB is a national bank with deposits insured by the FDIC. It has branches in several states, including many of the states in which WMB and WMB/FSB also have branches. CUSA is a national bank that is insured by the FDIC and has no branches.

JPMCB proposes to merge WMB/FSB into JPMCB immediately after consummation of JPMCB's purchase and assumption of the assets, including the stock of WMB/FSB, and liabilities of WMB. CUSA proposes to consummate its purchase of credit card accounts, including associated assets and liabilities, from JPMCB immediately after consummation of the merger between JPMCB and WMB/FSB.

ANALYSIS

Authority for the transactions and branch retention

National banks have long been authorized to purchase assets and assume liabilities of other depository institutions as an activity incidental to banking under the authority of 12 U.S.C. § 24(Seventh).¹ Consequently, JPMCB may acquire deposits and assets of WMB as proposed.² The next transaction, the merger between JPMCB and WMB/FSB, is authorized under 12 U.S.C. § 215c. Finally, the purchase of assets and assumption of liabilities from JPMCB by CUSA is permissible under 12 U.S.C. § 24(Seventh).³

Moreover, JPMCB is authorized to retain as branches the main office and branches of WMB and WMB/FSB. The FDIC Board, in approving the acquisition of assets and liabilities of WMB by JPMCB, has invoked its authority under 12 U.S.C. § 1823(k) to override any state laws that, as applied to national banks, would prohibit, restrict, limit, or lack authorization for JPMCB to retain those offices as branches.⁴ Consequently, the OCC concludes that JPMCB has authority

¹ See, e.g., *City National Bank of Huron v. Fuller*, 52 F.2d 870, 872 (8th Cir. 1931).

² As will be discussed, the FDIC Board, upon making the relevant findings, relied on its authority under 12 U.S.C. § 1823(k) to authorize this transaction.

³ With respect to the possibility that WMB or WMB/FSB may hold assets or subsidiaries or engage in activities not permitted for national banks, JPMCB has represented in its application that it will divest itself of any such nonconforming or impermissible assets, subsidiaries, or activities acquired through the transactions addressed in this approval within two years of the consummation date of these transactions or within any other period of time that the OCC deems appropriate. CUSA also has represented that it will divest itself of any nonconforming or impermissible activities or assets acquired through its purchase and assumption agreement with JPMCB within two years, or such other time period as the OCC deems appropriate.

⁴ Cf. *Colorado State Banking Board v. Resolution Trust Corporation*, 926 F.2d 931 (10th Cir. 1991); *Arkansas State Banking Commissioner v. Resolution Trust Corporation*, 911 F.2d 161 (8th Cir. 1990) (upholding authority of RTC to override state law branching limitations under 12 U.S.C. § 1823(k) including as applied to national banks).

to retain as branches the main offices and branches of WMB and WMB/FSB in each of the states in which such offices are located.⁵

Bank Merger Act

The OCC reviewed the proposed purchase and assumption transactions between JPMCB and WMB and between JPMCB and CUSA, and the proposed merger between JPMCB and WMB/FSB under the factors set forth in the Bank Merger Act (“BMA”),⁶ and applicable OCC regulations and policies. The OCC considered these factors and found them consistent with approval.

In addition, the OCC finds that it must act immediately under the standards set forth in the BMA to approve the proposed acquisition by JPMCB of WMB.⁷ At the time of entering its bid, JPMCB advised the FDIC and the OCC by letter of its need to immediately after consummation merge WMB/FSB into JPMCB and to have CUSA immediately assume the credit card business acquired by JPMCB as a result of those transactions.

In light of the close interrelationship between the JPMCB/WMB purchase and assumption transaction and the JPMCB/WMB/FSB merger and the JPMCB/CUSA purchase and assumption transaction, the OCC has determined that it must act immediately under the BMA to approve the JPMCB/WMB/FSB merger and the JPMCB/CUSA purchase and assumption transaction as well as the JPMCB/WMB purchase and assumption transaction.⁸

Community Reinvestment Act

The Community Reinvestment Act (“CRA”) requires the OCC to take into account the applicants’ record of helping to meet the credit needs of the community, including low-and-moderate-income (“LMI”) neighborhoods, when evaluating certain applications, including transactions that are subject to the BMA.⁹ The OCC considers the CRA performance evaluation of each institution involved in the transaction. A review of the record 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 less than satisfactory.

⁵ Title 12 U.S.C. § 36(e)(1) specifically authorizes national banks to acquire, establish or operate branches authorized under 12 U.S.C. § 1823(k). Moreover, we note that under 12 U.S.C. § 36(c), JPMCB may also retain and operate as branches the main offices and branches of WMB and WMB/FSB in the various states in which JPMCB has branches, and in the various states where JPMCB may establish interstate *de novo* branches under 12 U.S.C. § 36(g).

⁶ 12 U.S.C. § 1828(c).

⁷ 12 U.S.C. § 1828(c)(3).

⁸ Consequently, certain procedural requirements of the BMA are inapplicable to any of the transactions. 12 U.S.C. § 1828(c)(3), (4)(C), and (6).

⁹ 12 U.S.C. § 2903; 12 C.F.R. §§ 5.33(e)(1)(iv), 25.29.

Consummation guidance

This approval is granted based on our understanding that other applicable regulatory approvals, non-objections or waivers with respect to the proposed transactions will have been received prior to the consummation of the transaction. Within seven days of consummation of the transaction, please provide the Large Bank Licensing Lead Expert with copies of: a Secretary's Certificate for JPMCB, WMB/FSB, and CUSA certifying that a majority of the boards of directors of the relevant institutions approved the transaction; and executed purchase and assumption and merger agreements.

This approval 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 U.S., any agency or entity of the U.S., or any officer or employee of the U.S., and do not affect the ability of the OCC to exercise its supervisory, regulatory and examination authorities under applicable law and regulations. The foregoing may not be waived or modified by any employee or agent of the OCC or the U.S.

If you have questions regarding this letter, please contact Stephen A. Lybarger at 202-874-5294 or at Stephen.Lybarger@OCC.treas.gov. Please reference the application control number in any correspondence.

Sincerely,



Julie L. Williams

First Senior Deputy Comptroller and Chief Counsel