

Quarterly Journal

RECENT LICENSING DECISIONS

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Cases Published during October, November, and December 2004

CRA Decisions

On November 3, 2004, the OCC approved the application for Community Bank, National Association of Canton, NY, to purchase and assume the Dansville, NY, branch of HSBC Bank USA. The OCC received a letter from one commenter expressing concerns that the bank would close the HSBC branch after its acquisition. Community Bank confirmed that it plans to consolidate the operations of an existing branch into HSBC's Dansville branch because the locations are 60 feet from each other. The OCC found the consolidation of these two branches is not expected to have a significant impact on the community due to their proximity. Based on Community Bank's CRA record of performance, the OCC found approval to be consistent with the CRA. [Approval No. 124]

Charters

On September 15, 2004, the OCC granted preliminary conditional approval to the establishment of RBS National Bank, Bridgeport, CT, a new national limited purpose credit card bank. The standard "significant deviation" condition for all new charters was imposed and a condition that requires the bank to commence operations with sufficient capital and surplus as defined in 12 CFR 3.100, to be a well capitalized bank as defined in 12 CFR 6.4 and continue as such for as long as its shall remain a national bank. In addition to the foregoing, the bank shall maintain at least \$20 million of additional capital over and above that which is necessary to remain well capitalized. [Conditional Approval No. 650]

Change in Asset Composition

On October 28, 2004, the OCC conditionally approved the applications by Dillard National Bank (DNB), Gilbert, AZ, for a change in the composition of its assets and to merge DNB into Dillard Investment Co. Inc., a nonbank affiliate. The OCC approved the sale of all the deposit liabilities and substantially all the assets of DNB to GE Capital Consumer Card Co., FSB, under 12 CFR 5.53, which requires prior approval of a fundamental change in asset composition. This new regulation became effective on October 1, 2004. The principal purpose of the regulation was to

address supervisory concerns raised by so called “dormant” bank charters by providing the OCC with regulatory oversight and a means to monitor them. DNB plans to merge into its nonbank affiliate parent under 12 USC 215a-3 immediately after the transaction that would make DNB a dormant charter. Therefore, the OCC’s concern with a dormant charter is addressed. [Conditional Approval No. 662]

Mergers

On October 13, 2004, the OCC conditionally approved the applications to convert JPMorgan Chase Bank, New York, NY, into a national banking association, and to merge Bank One, NA, Chicago, IL, and Bank One, NA, Columbus, OH, with and into the converted bank. This approval was subject to the condition that after consummation of the conversion and merger the resulting bank, JP Morgan Chase Bank, National Association (JPMCB-National), shall continue to implement appropriate measures to facilitate J.P. Morgan Chase & Co.’s compliance with the written agreement among J.P. Morgan Chase & Co., the Federal Reserve Bank of New York, and the New York State Banking Department, dated July 28, 2003, with respect to activities at JPMCB-National and its subsidiaries. [Conditional Approval No. 658]

Operating Subsidiaries

On September 10, 2004, the OCC approved the application by First National Bank in Durant, Durant, OK, to establish a limited partnership as an operating subsidiary with a wholly owned LLC as the limited partner and a wholly owned corporation as a general partner. This application was originally filed as an after the fact notice pursuant to 12 CFR 5.34(e)(5)(iv). The OCC determined that the application raised a novel legal issue because of the use of a limited partnership as an operating subsidiary. Therefore, the OCC decided to consider this notice as an application requiring an affirmative action for approval. [Approval No. 2004-16]

Capital

On September 28, 2004, the OCC conditionally approved the application by Treasury Bank, National Association, Alexandria, VA, to increase its capital surplus by up to \$300 million through a material non-cash contribution. The bank’s parent, Effinity Financial Corporation, will provide the capital contribution by contributing home equity loans having a fair value of up to \$300 million. The approval was subject to conditions requiring the bank to submit to the OCC the results of an independent portfolio valuation substantiating the fair market value of the home equity portfolio to be contributed and a qualified independent accounting firm’s verification that the loans were transferred using the value methodology represented in the application. [Conditional Approval No. 653]

Branches

On November 16, 2004, the OCC conditionally approved the applications of FSGBank, NA, Athens, TN, to establish two branch offices under the name of *Primer Banco Seguro, una division de* FSGBank, NA. The branches will be located in Dalton, GA, and will primarily market services to individuals who do not have a relationship with a bank and who would benefit from access to a Spanish-speaking staff. The approval was subject to the condition that prior to offering credit products at the branches, the bank must request and receive no objection from the OCC. The condition does not apply to the 7/1 adjustable rate mortgage or auto installment loans as presented in the bank's application for the branches. [Conditional Approval No. 664]