



Office of the Comptroller of the Currency

Interpretations - Corporate Decision #96-42

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August 6, 1996

Mr. Mark E. Plotkin

Covington & Burling

Post Office Box 7566

Washington, DC 20044-7566

Re: Application to merge BayBank, National Association, Boston, Massachusetts, with and into The First National Bank of Boston, Boston, Massachusetts, under the charter of the latter and with the title of BayBank of Boston, National Association

Application Control Number: 96-ML-02-0015

Dear Mr. Plotkin:

This is to inform you that on August 6, 1996, the Office of the Comptroller of the Currency ("OCC") approved the proposal to merge BayBank, National Association, Boston, Massachusetts ("BayBank"), with and into The First National Bank of Boston, Boston, Massachusetts ("FNBB"), under the charter of the latter and with the title of BayBank of Boston, National Association ("BayBank of Boston"). The merger is legally authorized under 12 U.S.C. 215a. After the merger, the resulting bank is legally authorized to retain and operate the main office of BayBank and its branches in Massachusetts and Connecticut as branches, as well as the branches of FNBB, as allowed under the McFadden Act [12 U.S.C. 36(b)(2)]. This approval is granted based on a thorough review of all the information available, including representations made in the application and the merger agreement and those of your representatives.

Following consummation of the merger and for a period of two years, BayBank of Boston, as the resulting bank, shall be permitted to hold the money market preferred stock that the OCC previously permitted BayBank to hold when it converted to a national charter in 1995. The resulting bank's retention of the stock is subject to the same conditions that were made applicable to BayBank, as set forth in its conversion approval (Corporate Decision 95-49, dated September 30, 1995). At the end of the two-year holding period, BayBank of Boston will be required to dispose of the stock, if in the interim the OCC has not otherwise extended the period that the resulting bank may retain the stock.

The OCC also authorizes the resulting bank, should the merger occur between Call Report dates, to recalculate its legal lending limit. The new lending limit should be calculated by using data from the last Call Report of the individual banks filed prior to consummating the merger, as adjusted for the merger. The resulting bank will then file a new Call Report and begin calculating its legal lending limit according to 12 C.F.R. 32.4(a) at the end of the quarter following consummation of the merger.

In addition, please be advised that the permissible holding period under 12 U.S.C. 29 for Other Real Estate Owned ("OREO") that will be acquired from BayBank, commences from the date BayBank converted to a national charter.

This approval does not cover FNBB's request for an increase of its permissible aggregate investment in fixed assets. Since FNBB will be divesting branches as part of the merger proposal, it is suggested that if an increase in the bank's limit is needed upon completing all branch divestitures, the bank submit to the Multinational Banking Department a formal request for approval of an "excess investment in fixed assets." In the interim period, FNBB has approval to acquire and hold, by way of the merger, those fixed assets currently held by BayBank.

The Multinational Banking Department must be advised in writing in advance of the desired effective date for the merger so that the OCC may issue the necessary certification letter. The effective date of the merger must be after the expiration of the period during which the Department of Justice may file an injunction to stop the merger, i.e., at least 15 days after the date of this letter.

We will not issue a letter certifying consummation of the merger until we have received:

1. A Secretary's Certificate for each applicant institution, certifying that a majority of the board of directors has agreed to the proposed merger,
2. An executed merger agreement with Articles of Association for the resulting bank attached, and
3. A Secretary's Certificate for each institution, certifying that the shareholders' approvals have been obtained.

If the merger is not consummated within one year from the approval date, the approval will automatically terminate unless the OCC grants an extension of the time period.

All correspondence regarding this application should reference the application control number. If you have any questions concerning this letter, please contact Licensing Manager Richard T. Erb in our Multinational Banking Department at (202) 874-4610 or me at (202) 874-5060.

Sincerely,

/s/

Robert A. Sihler

Senior Bank Structure Analyst

Bank Organization and Structure