



Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

November 24, 2009

**Conditional Approval #941
February 2010**

Mr. James E. Hanson
Vice President
Wells Fargo Bank, National Association
90 South Seventh Street
Minneapolis, MN 55479

Re: Applications to merge Wachovia Bank, National Association, Charlotte, North Carolina and Wachovia Bank of Delaware, National Association, Wilmington, Delaware with and into Wells Fargo Bank, National Association, Sioux Falls, South Dakota.
Application Control Number: 2009-ML-02-0012

Dear Mr. Hanson:

The Office of the Comptroller of the Currency (“OCC”) hereby approves the application to merge Wachovia Bank, National Association, Charlotte, North Carolina (“WBNA”) and Wachovia Bank of Delaware, National Association, Wilmington, Delaware (“WBDNA”) with and into Wells Fargo Bank, National Association, Sioux Falls, South Dakota (“WFBNA”) under the charter of WFBNA and with the title Wells Fargo Bank, National Association, for the reasons and subject to the conditions and requirements set forth herein. This approval is granted after a thorough evaluation of the application, other materials you have supplied, and other information available to the OCC, including representations made in the application and by the applicant’s representatives during the application process.

The Transaction

WFBNA, WBNA and WBDNA are wholly-owned indirect subsidiaries of Wells Fargo & Company (“WFC”). WFBNA has branches in 22 states, WBNA has branches in 18 states and the District of Columbia, and WBDNA has branches only in Delaware. WFBNA will not retain WBNA’s main office in Charlotte, North Carolina as a branch, but will retain the main office of WBDNA in Wilmington, Delaware as a branch of the resulting bank. WFBNA plans to operate the branches of WBNA and WBDNA as branch offices of the resulting bank.

Legal Authority for the Merger

WFBNA has applied to the OCC for approval to acquire by merger WBNA and WBDNA pursuant to 12 U.S.C. §§ 215a-1, 1828(c) and 1831u. The home state of WFBNA is South Dakota and the home states of the target banks are North Carolina and Delaware. Consequently,

in this transaction it is proposed that three affiliated banks with different home states will merge under the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (“Riegle-Neal”). The OCC may not approve an interstate merger if the transaction involves a bank whose home state has enacted a law between September 29, 1994, and May 31, 1997, that expressly prohibits all mergers with all out-of-state banks. All three states have laws permitting interstate mergers.

Approval of an interstate merger transaction under 12 U.S.C. § 1831u is also subject to certain requirements and conditions set forth in sections 1831u(a)(5) and 1831u(b). These conditions are: (1) compliance with state-imposed age limits, if any, subject to the Riegle-Neal limits; (2) compliance with filing requirements, including certain state filing requirements permitted by Riegle-Neal; (3) compliance with deposit concentration limits; (4) expanded community reinvestment compliance; and (5) adequacy of capital and management skills. The OCC has determined that the merger satisfies applicable conditions regarding age, filing, and capital and management skills. The requirements relating to deposit concentration limits and expanded community reinvestment analysis are inapplicable to mergers, such as this, between affiliated banks. Pursuant to 12 U.S.C. § 1831u(d)(1), the OCC also has determined that WFBNA may retain its main office as its main office following consummation of the merger, and may retain as branches its own branches, the branches of WBNA, and the main office and branches of WBDNA.

WFBNA is also authorized to retain each of WBNA’s permissible operating, financial, and statutory subsidiaries and non-controlling investments as established or acquired in accordance with applicable law and OCC regulations.

Bank Merger Act

The OCC reviewed the proposed merger transaction under the criteria of the Bank Merger Act, 12 U.S.C. § 1828(c). Among other matters, we found that the proposed transaction would have no anticompetitive effects. The OCC also considered the financial and managerial resources of the banks, their future prospects, and the convenience and needs of the communities to be served. In addition, the Bank Merger Act requires the OCC to consider “. . . the effectiveness of any insured depository institution involved in the proposed merger transaction in combatting money laundering activities . . .” The OCC considered these factors and found them to be consistent with approval of this application.

Community Reinvestment Act

The OCC also is required to consider the applicants’ records of compliance with the Community Reinvestment Act (“CRA”), 12 C.F.R. § 25.29(a)(3), including the applicant’s record of helping to meet the credit needs of the community, including low- and moderate-income (“LMI”) neighborhoods, when evaluating certain applications, including consolidation and merger transactions that are subject to the Bank Merger Act. 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.

Section 1818 Condition

This approval is subject to the following conditions:

- Prior to consummation of the merger, as approved, WFBNA shall execute an operating agreement ("Operating Agreement") with the OCC. The Operating Agreement shall provide, among other requirements, that prior to the consummation of the merger, WFBNA shall enter into an agreement, acceptable to the OCC, with WFC pursuant to which WFC shall indemnify WFBNA for losses and related expenditures, as specified, that may be incurred directly or indirectly by WFBNA arising from the acquisition, directly or indirectly, of specified assets or interests in specified assets, or any activity assumed by WFBNA with respect to such assets or interests in such assets.
- The WFBNA Board of Directors shall assure that the Operating Agreement is fully adopted, timely implemented, and adhered to thereafter.

These conditions of approval are conditions "imposed in writing by a Federal Agency in connection with any action on any application, notice or other request" within the meaning of 12 U.S.C. § 1818. As such, the conditions are enforceable under 12 U.S.C. § 1818.

Consummation Requirements

This approval is granted based on our understanding that other applicable regulatory approvals, non-objections or waivers with respect to the proposed transaction will have been received prior to the transaction.¹

With respect to the merger application, please ensure that you have submitted the following prior to your desired consummation date:

- A Secretary's Certificate for each institution, certifying that a majority of the board of directors approved.
- An executed merger agreement and, if appropriate, the Articles of Association for the resulting bank attached.

¹ We note that upon consummation of the merger, WFBNA, as successor to WBNA, and WFC, as the holding company of WFBNA and successor to Wachovia Corporation, as provided for in WBNA's December 2008 Operating Agreement with the OCC, and the December 2008 Indemnification and Repurchase Agreement between WBNA and Wachovia Corporation, hold or continue to hold all rights, duties, responsibilities, and obligations set forth in those agreements.

We also note that while the merger is structured as a merger of WBNA and WBDNA into WFBNA, in accordance with your request, the OCC will renumber WFBNA's charter to take the charter number of WBNA, Charter No. 1.

- A Secretary's Certificate from each institution, certifying that the shareholder approvals have been obtained, if required.

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

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 United States, any agency or entity of the United States, or any officer or employee of the United States, and do not affect the ability of the OCC to exercise its supervisory, regulatory and examination authorities under applicable law and regulations. Our decision is based on the bank's representations, submissions, and information available to the OCC as of this date. The OCC may modify, suspend or rescind this decision if a material change in information on which the OCC relied occurs prior to the date of the transaction to which this decision pertains. The foregoing may not be waived or modified by any employee or agent of the OCC or the United States.

All correspondence regarding this application should reference the application control number. If you have any questions, please contact me at (202) 874-5294 or by email at Stephen.Lybarger@occ.treas.gov.

Sincerely,

Steven A. Lybarger

Stephen A. Lybarger
Large Bank Licensing Expert