



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

Licensing Department
Mail Stop 7-13
250 E Street, S.W.
Washington, D.C. 20219

**Conditional Approval #932
January 2010**

October 15, 2009

Mr. William Eckland
Sidley Austin LLP
1501 K Street, N.W.
Washington, D.C. 20005

Re: Disposition of Substantially all the Assets of Spirit of America National Bank, Milford, Ohio, via a Purchase and Assumption with World Financial Network National Bank, Columbus, Ohio
OCC Control No.: 2009-WE-12-0241

Merger of Spirit of America National Bank, with and into Fashion Services Corp.
OCC Control No.: 2009-WE-12-0242

Dear Mr. Eckland:

The Office of the Comptroller of Currency (“OCC”) hereby conditionally approves the above referenced applications.

The Transactions

These applications are part of a series of transactions in which the credit card business of Spirit of America National Bank, Milford, Ohio (“Spirit”) will be sold to World Financial Network National Bank, Columbus, Ohio (“World”), and thereafter the operations and charter of Spirit will be terminated. Spirit is a wholly-owned subsidiary of Fashion Service Corp. (“FSC”), which in turn is a wholly owned subsidiary of Charming Shoppes, Inc. As proposed, the following events will occur in sequence on the same business day.

1. Spirit will transfer substantially all of its assets and all of its insured deposits to World in a purchase and assumption transaction.¹

¹ Upon consummation of the purchase and assumption and notification to the Federal Deposit Insurance Corporation of the transfer of all insured deposits from Spirit to World, Spirit will no longer be FDIC insured pursuant to 12 U.S.C. § 1818(q) and 12 C.F.R. § 307.2. World’s participation in the purchase and assumption is subject to a separate approval by the OCC, pursuant to the Bank Merger Act, 12 U.S.C. § 1828(c).

2. Spirit will merge with and into FSC, thereby terminating Spirit's charter.

Discussion

A. Fundamental Change in Asset Composition

Spirit applied to the OCC for prior approval of a fundamental change in its asset composition under 12 C.F.R. § 5.53. Under section 5.53(c)(1)(i), a national bank must obtain prior written approval of the OCC before changing the composition of all, or substantially all, of its assets through sales or other dispositions. In the purchase and assumption transaction with World, Spirit will sell all its deposits and substantially all of its assets.

The principal purpose of adopting 12 C.F.R. § 5.53 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. Spirit plans to merge into its nonbank affiliate, FSC. Thus, OCC concerns over the continuation of "dormant" charters are addressed, and so the OCC hereby approves Spirit's application, and the approval is consistent with the language and purpose of section 5.53.

B. Merger of Spirit with and into FSC

In this merger, Spirit will merge into its parent, FSC. FSC will be the surviving entity, and Spirit will cease to exist.

The merger is authorized under 12 U.S.C. § 215a-3. Section 215a-3 authorizes a national bank to merge with a nonbank subsidiary or affiliate: "Upon the approval of the Comptroller, a national bank may merge with one or more of its nonbank subsidiaries or affiliates." 12 U.S.C. § 215a-3(a), as added by section 1206 of the Financial Regulatory Relief and Economic Efficiency Act of 2000 (Title XII of the American Homeownership and Economic Opportunity Act of 2000), Pub. L. No. 106-569, 114 Stat. 2944, 3034 (December 27, 2000).

The statute does not limit its scope to mergers in which the national bank is the surviving entity, and so a merger *into* a nonbank affiliate is within its scope. The OCC's implementing regulation, discussed below, expressly provides for mergers into a nonbank affiliate. However, the regulation limits these transactions to mergers involving a national bank that is not an insured bank. Spirit will not be an insured bank at the time of the merger.

The OCC's regulations implementing 12 U.S.C. § 215a-3 set out substantive and procedural requirements for the merger of an uninsured national bank with its nonbank affiliate in which the nonbank affiliate is the resulting entity. *See* 12 C.F.R. § 5.33(g)(5). The regulation requires that the law of the state or other jurisdiction under which the nonbank affiliate is organized allow the nonbank affiliate to engage in such mergers. The regulation also imposes the following additional requirements that: (1) the bank comply with the procedures of

12 U.S.C. § 214a as if it were merging into a state bank, (2) the nonbank affiliate follow the procedures for mergers of the law of its state of organization, and (3) shareholders of the national bank who dissent from the merger have the dissenters' rights set out in 12 U.S.C. § 214a. The regulation also provides that the OCC shall consider the purpose of the transaction, its impact on the safety and soundness of the bank, and any effect on the bank's customers, and may deny a merger if it would have a negative effect in any such respect.

The OCC reviewed the proposed merger of Spirit into FSC and found that all requirements were satisfied. The OCC hereby approves the merger of Spirit into FSC.

Condition

These approvals are subject to the following condition:

If the merger of Spirit with and into FSC does not occur within seven (7) calendar days after the sale of substantially all of Spirit's assets to World, Spirit shall immediately notify the OCC and submit a plan acceptable to the OCC to wind up its affairs and terminate its status as a national bank.

This condition of approval is a "condition imposed in writing by a Federal banking 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 condition is enforceable under 12 U.S.C. § 1818.

Conclusion

Accordingly, the OCC approves Spirit's applications for a fundamental change in asset composition, and for the merger of Spirit into FSC. These approvals are subject to the condition set out above. This conditional approval is also granted based on the information and representations made in the application. In particular, the approvals are based on Spirit's representation that the merger will occur shortly after the purchase and assumption transaction and the termination of Spirit's status as an insured bank.

The OCC will not issue a letter certifying the consummation of the transactions until we have received:

1. Written confirmation that Spirit is no longer FDIC insured.
2. Spirit's charter certificate, and certification that all OCC Reports of Examination have been returned to the OCC, or destroyed.
3. A copy of the final Certificate of Merger filed with the Delaware Secretary of State.

These conditional approvals, and the activities and communications by OCC employees in connection with the filing, do not constitute a contract, express or implied, or any other

Spirit of America National Bank
Milford, Ohio

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 approval 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 approval if a material change in the 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.

A separate letter is enclosed requesting your feedback on how we handled your application. We would appreciate your response so we may improve our service.

If you have any questions, contact Senior Licensing Analyst Jim Bundy at 720-475-7650 or at jim.bundy@occ.treas.gov. Please include the OCC's control number on any correspondence.

Sincerely,

signed

Ellen Tanner Shepherd
Director for District Licensing

Enclosure: Survey