



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

Washington, D.C. 20219

**Corporate Decision #97-46
June 1997**

**DECISION OF THE OFFICE OF THE COMPTROLLER OF THE CURRENCY
ON THE APPLICATION TO MERGE
THE HUNTINGTON NATIONAL BANK OF FLORIDA, MAITLAND, FLORIDA,
THE HUNTINGTON NATIONAL BANK OF INDIANA, NOBLESVILLE, INDIANA,
HUNTINGTON NATIONAL BANK WEST VIRGINIA, CHARLESTON, WEST VIRGINIA,
HUNTINGTON BANKS OF MICHIGAN, TROY, MICHIGAN,
THE HUNTINGTON TRUST COMPANY, N.A., COLUMBUS, OHIO, AND
THE HUNTINGTON TRUST COMPANY OF FLORIDA, N.A., NAPLES, FLORIDA,
WITH AND INTO
THE HUNTINGTON NATIONAL BANK, COLUMBUS, OHIO**

June 4, 1997

I. INTRODUCTION

On March 3, 1997, The Huntington National Bank, Columbus, Ohio ("Huntington") filed an application with the Office of the Comptroller of the Currency ("OCC") for approval to merge four affiliated banks -- The Huntington National Bank of Florida, Maitland, Florida ("HNBFB"), The Huntington National Bank of Indiana, Noblesville, Indiana ("HNBI"), Huntington National Bank West Virginia, Charleston, West Virginia ("HNBWV"), and Huntington Banks of Michigan, Troy, Michigan ("HBM") (together "the Target Banks") -- with and into Huntington under Huntington's charter and title, under 12 U.S.C. §§ 215a-1, 1828(c) & 1831u(a) ("the Interstate Merger"). Huntington also applied for approval to merge, immediately after the Interstate Merger, two affiliated national trust companies -- The Huntington Trust Company, National Association, Columbus, Ohio ("HTC") and The Huntington Trust Company of Florida, National Association, Naples, Florida ("HTCF") -- with and into Huntington under Huntington's charter and title, under 12 U.S.C. § 215a ("the Subsequent Trust Merger").¹ In the Interstate Merger, OCC approval is also requested for Huntington, as the resulting bank in the merger, to retain Huntington's main office as the main office of the resulting bank under 12 U.S.C.

¹ The merger of HTC and HTCF into Huntington also requires the approval of the Federal Deposit Insurance Corporation ("FDIC") under the Bank Merger Act. See 12 U.S.C. § 1828(c)(1)(A). That approval was granted on April 25, 1997.

§ 1831u(d)(1) and to retain Huntington's branches and the Target Banks' main offices and branches, as branches after the merger, under 12 U.S.C. §§ 36(d) & 1831u(d)(1). After the Subsequent Trust Merger, all but one of the offices of the two trust companies will be combined with the main office or branches of Huntington, since the trust banks' offices are at the same locations. Huntington will continue to operate HTC's nonbranch trust office in Lima, Ohio, as a nonbranch trust office.

All of these banks and trust companies are direct or indirect wholly-owned subsidiaries of Huntington Bancshares Incorporated, Columbus, Ohio, a multistate bank holding company headquartered in Columbus, Ohio. In the proposed merger, the five banks and two trust companies will be combined into one bank with branches in six states.²

II. LEGAL AUTHORITY

A. The Interstate Merger of HNBF, HNBI, HNBWV, and HBM into Huntington is Authorized, and the Resulting Bank may Retain the Offices of the Banks, under 12 U.S.C. §§ 215a-1 & 1831u & 36(d) (the Riegle-Neal Act).

1. The interstate merger transaction is authorized.

In 1994, Congress enacted legislation to create a framework for interstate mergers and branching by banks. See Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, Pub. L. No. 103-328, 108 Stat. 2338 (enacted September 29, 1994) ("the Riegle-Neal Act"). The Riegle-Neal Act added a new section 44 to the Federal Deposit Insurance Act that authorizes certain interstate merger transactions beginning on June 1, 1997. See Riegle-Neal Act § 102(a) (adding new section 44, 12 U.S.C. § 1831u). It also made conforming amendments to the provisions on mergers and consolidations of national banks to permit national banks to engage in such section 44 interstate merger transactions. See Riegle-Neal Act § 102(b)(4) (adding a new section, codified at 12 U.S.C. § 215a-1). It also added a similar conforming amendment to the McFadden Act to permit national banks to maintain and operate branches in accordance with section 44. See Riegle-Neal Act § 102(b)(1)(B) (adding new subsection 12 U.S.C. § 36(d)).

Section 44 authorizes mergers between banks with different home states:

(1) In General. -- Beginning on June 1, 1997, the responsible agency may approve a merger transaction under section 18(c) [12 U.S.C. § 1828(c), the Bank Merger Act] between insured banks with different home States, without regard to whether such transaction is prohibited under the law of any State.

² Each of the Target Banks operates branches only in its home state. As a result of an earlier transaction, Huntington operates branches in Kentucky, as well as in its home state of Ohio. See Decision on the Applications of The Huntington Bank, Inc., Covington, Kentucky, and The Huntington National Bank, Columbus, Ohio (OCC Corporate Decision No. 95-37, July 17, 1995).

12 U.S.C. § 1831u(a)(1).³ The Act permits a state to elect to prohibit such interstate merger transactions involving a bank whose home state is the prohibiting state by enacting a law between September 29, 1994, and May 31, 1997, that expressly prohibits all mergers with all out-of-state banks. See 12 U.S.C. § 1831u(a)(2) (state "opt-out" laws). In the Interstate Merger here, the home states of the banks are Ohio, Florida, Indiana, West Virginia, and Michigan. None of these states has opted out. Accordingly, the Interstate Merger may be approved under 12 U.S.C. §§ 215a-1 & 1831u(a).

In addition, an application to engage in 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) of the Riegle-Neal Act. These conditions are: (1) compliance with state-imposed age limits, if any, subject to the Act's limits; (2) compliance with certain state filing requirements, to the extent the filing requirements are permitted in the Act; (3) compliance with nationwide and state concentration limits; (4) community reinvestment compliance; and (5) adequacy of capital and management skills.

The Interstate Merger satisfies all these conditions to the extent applicable. First, the proposed merger satisfies the state-imposed age requirements permitted by section 1831u(a)(5). Under that section, the OCC may not approve a merger under section 1831u(a)(1), "that would have the effect of permitting an out-of-State bank or out-of-State bank holding company to acquire a bank in a host State that has not been in existence for the minimum period of time, if any, specified in the statutory law of the host State." 12 U.S.C. § 1831u(a)(5)(A). In the Interstate Merger, Huntington is acquiring by merger banks in the host states of Florida, Indiana, West Virginia, and Michigan. Florida requires that, in a merger with an out-of-state bank in which the out-of-state bank is the surviving bank, the Florida bank must have been in existence and continuously operating, on the date of the acquisition, for more than 3 years. See Fla. Stat. Ann. § 658.2953(7)(c) (1996). Indiana, West Virginia, and Michigan do not have an age requirement for interstate merger transactions. HNBF, HNBI, HNBWV, and HBM all have been in existence for more than five years. Thus, the Interstate Merger satisfies the Riegle-Neal Act requirement of compliance with state age laws.

Second, the proposal meets the applicable filing requirements. A bank applying for an interstate merger transaction under section 1831u(a) must (1) "comply with the filing requirements of any host State of the bank which will result from such transaction" as long as the filing requirement does not discriminate against out-of-state banks and is similar in effect to filing requirements imposed by the host state on out-of-state nonbanking corporations doing business in the host state, and (2) submit a copy of the application to the state bank supervisor of the host

³ For purposes of section 1831u, the following definitions apply: The term "home State" means, with respect to a national bank, "the State in which the main office of the bank is located." The term "host State" means, "with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch." The term "interstate merger transaction" means any merger transaction approved pursuant to section 1831u(a)(1). The term "out-of-State bank" means, "with respect to any State, a bank whose home State is another State." The term "responsible agency" means the agency determined in accordance with 12 U.S.C. § 1828(c)(2) (namely, the OCC if the acquiring, assuming, or resulting bank is a national bank). See 12 U.S.C. § 1831u(f)(4), (5), (6), (8) & (10).

state. See 12 U.S.C. § 1831u(b)(1).⁴ The Florida interstate bank merger statute requires an out-of-state bank that results from an interstate merger with a Florida bank to notify the state banking department within 15 days after it has filed its merger application with the appropriate federal regulatory agency and to submit a copy of the application to the department. See Fla. Stat. Ann. § 658.2953(8).⁵ Michigan has a similar requirement that the out-of-state bank notify the state bank commissioner by filing a copy of its federal merger application. See Mich. Comp. Laws § 487.425a (Mich. Stat. Ann. § 23.710(125a)). The West Virginia interstate bank merger statute does not contain any filing or notice requirement for an interstate merger between two national banks.⁶ Huntington submitted a copy of its OCC merger application to the Florida, Michigan, and West Virginia state bank supervisors, as required under section 1831u(b)(1). Counsel for Huntington also confirmed with the three states that no other filings were required in those states.

The Indiana interstate bank merger statute requires an out-of-state bank, before acquiring an Indiana bank in a merger, to notify the Indiana Department of Financial Institutions (“Department”) of the proposed merger, submit a copy of the federal merger application, and to provide satisfactory evidence to the Department of compliance with the applicable requirements of chapter 22 of the Indiana Financial Institutions Act. See Ind. Code § 28-2-17-22. Chapter 22 provides that any out-of-state financial institution must obtain a certificate of admission before doing business in Indiana. See Ind. Code § 28-1-22-1 *et seq.* These provisions are similar to the requirements for foreign nonbanking corporations doing business in Indiana, Ind. Code § 23-1-49-1 *et seq.* Huntington notified the Department and provided a copy of its OCC merger application to the Department. It also obtained a certificate under chapter 22. Thus, the Interstate Merger satisfies the Riegle-Neal Act’s filing requirements.

Third, the proposed Interstate Merger does not raise issues with respect to the deposit concentration limits of the Riegle-Neal Act. Section 1831u(b)(2) places certain nationwide and

⁴ Under this provision, states are permitted to impose a filing requirement on out-of-state banks that will operate branches in the state as a result of an interstate merger transaction under the Riegle-Neal Act, but the states may impose only those requirements that are within the terms specified. Since Congress has specifically set forth and limited what state filing requirements apply for these interstate transactions, it clearly intended that only those requirements would apply, and the states may not impose others. Thus, in a transaction involving only national banks, only the filing requirements allowed under section 1831u(b)(1) must be complied with. However, where a state bank is involved, a state may continue to have authority to impose greater requirements on its own state-chartered banks, because of the reservation of authority in section 1831u(c)(3). Moreover, as a general matter, national banks are formed and incorporated under, and governed by, federal law. Their authority to enter mergers, to establish branches, or to undergo other changes in their corporate existence is determined by federal law, not state law; and any requisite approval is by the OCC, not state authorities. For a fuller discussion of this subject, see, e.g., Decision on the Applications to Merge First Interstate Banks into Wells Fargo Bank, N.A. (OCC Corporate Decision No. 96-29, June 1, 1996) (at pages 4-5, 12-14 & note 11).

⁵ The Florida statute currently also requires the out-of-state bank to comply with the general foreign corporation filing requirements of Fla. Stat. Ann. §§ 607.1501 - 607.1532. However, recent legislation in Florida amended the statute to delete that requirement. While the amendment is not effective until October, counsel for Huntington was advised by the Florida authorities that no filing would be required.

⁶ The West Virginia statute does contain notice and filing requirements when an out-of-state state bank is the resulting bank in a merger with a West Virginia bank. See W. Va. Code § 31A-8D-5.

statewide deposit concentration limits on section 1831u(a) interstate merger transactions. However, interstate merger transactions involving only affiliated banks are specifically excepted from these provisions. See 12 U.S.C. § 1831u(b)(2)(E). Huntington and the Target Banks are affiliates; thus section 1831u(b)(2) is not applicable to this merger.

Fourth, the proposed Interstate Merger also does not raise issues with respect to the special community reinvestment compliance provisions of the Riegle-Neal Act. In determining whether to approve an application for an interstate merger transaction under section 1831u(a), the OCC must (1) comply with its responsibilities under section 804 of the federal Community Reinvestment Act ("CRA"), 12 U.S.C. § 2903, (2) take into account the CRA evaluations of any bank which would be an affiliate of the resulting bank, and (3) take into account the applicant banks' record of compliance with applicable state community reinvestment laws. See 12 U.S.C. § 1831u(b)(3). However, this provision does not apply to mergers between affiliated banks since it applies only "for an interstate merger transaction in which the resulting bank would have a branch or bank affiliate immediately following the transaction in any State in which the bank submitting the application (as the acquiring bank) had no branch or bank affiliate immediately before the transaction." 12 U.S.C. § 1831u(b)(3). See also, H.R. Conf. Rep. No. 651, 103d Cong., 2d Sess. 52 (1994). In the Interstate Merger, Huntington (the bank submitting the application as the acquiring bank) has a bank affiliate in each of the host states before the transaction (i.e., the Target Banks), and is also not otherwise obtaining a branch or bank affiliate in any state in which it did not have a branch or bank affiliate before. Thus, this Riegle-Neal Act provision is not applicable to the Interstate Merger. However, the Community Reinvestment Act itself is applicable, as discussed below, see Part III-B.

Fifth, the proposal satisfies the adequacy of capital and management skills requirements. The OCC may approve an application for an interstate merger transaction under section 1831u(a) only if each bank involved in the transaction is adequately capitalized as of the date the application is filed and the resulting bank will continue to be adequately capitalized and adequately managed upon consummation of the transaction. See 12 U.S.C. § 1831u(b)(4). As of the date the application was filed, Huntington and the Target Banks satisfied all regulatory and supervisory requirements relating to adequate capitalization. Currently, each bank is at least satisfactorily managed. The OCC has also determined that, following the merger, Huntington will continue to exceed the standards for an adequately capitalized and adequately managed bank. The requirements of 12 U.S.C. § 1831u(b)(4) are therefore satisfied.

Accordingly, the proposed Interstate Merger between Huntington and the Target Banks is legally permissible under section 1831u.⁷

⁷ HBM is a Michigan state-chartered bank. It neither has non-conforming assets nor engages in any activities impermissible for national banks. It has only one subsidiary, an inactive residential mortgage subsidiary that Huntington will acquire in the merger. That subsidiary will be liquidated during 1997. Michigan law permits the merger of a state bank with a national bank and with an out-of-state bank. See Mich. Comp. Laws §§ 487.425 & 487.425a (Mich. Stat. Ann. §§ 23.710(125) & 23.710(125a)). The merger of HBM into Huntington is not in contravention of state law.

2. The resulting bank may retain Huntington's and the Target Banks' existing main offices and branches under 12 U.S.C. §§ 36(d) & 1831u(d)(1).

Huntington has requested that, upon the completion of the Interstate Merger, Huntington (as the resulting bank in the merger) be permitted to retain and continue to operate its existing main office in Columbus, Ohio, as the main office of the resulting bank and to retain and continue to operate as branches (1) its own branches and (2) the main offices and branches of the Target Banks. In an interstate merger transaction under section 1831u, the resulting bank's retention and continued operation of the offices of the merging banks is expressly provided for:

(1) Continued Operations. -- A resulting bank may, subject to the approval of the appropriate Federal banking agency, retain and operate, as a main office or a branch, any office that any bank involved in an interstate merger transaction was operating as a main office or a branch immediately before the merger transaction.

12 U.S.C. § 1831u(d)(1). The resulting bank is the "bank that has resulted from an interstate merger transaction under this section [section 1831u(a)]." 12 U.S.C. § 1831u(f)(11). In addition, Congress also added a conforming amendment to the McFadden Act to emphasize that branch retention in an interstate merger transaction under section 1831u occurs under the authority of section 1831u(d):

(d) Branches Resulting From Interstate Merger Transactions. -- A national bank resulting from an interstate merger transaction (as defined in section 44(f)(6) of the Federal Deposit Insurance Act) may maintain and operate a branch in a State other than the home State (as defined in subsection (g)(3)(B)) of such bank in accordance with section 44 of the Federal Deposit Insurance Act.

12 U.S.C. § 36(d) (as added by Riegle-Neal Act § 102(b)(1)(B)). Therefore, Huntington, the resulting bank in the Interstate Merger, may retain and continue to operate all of the existing banking offices of Huntington and the four Target Banks (HNBF, HNBI, HNBWV, and HBM) under 12 U.S.C. §§ 36(d) & 1831u(d)(1).⁸

⁸ By its action in adding section 36(d), Congress made it clear that section 44(d)(1) is an express and complete grant of office-retention authority for interstate merger transactions effected under section 44 and that it operates independently of the provisions for branch retention in mergers under 12 U.S.C. § 36(b)(2). Neither section 36(d) nor section 1831u(d)(1) refer to section 36(b)(2). Congress clearly was aware of the McFadden Act's existing provisions for branch retention in mergers at the time it acted on Section 44 and the way in which those provisions applied for interstate national banks, since the OCC had approved interstate main office relocation transactions that also involved mergers with affiliate banks in which the resulting bank's authority to retain branches was based on section 36(b)(2). The Conference Report to the Riegle-Neal Act makes reference to such OCC decisions. See H.R. Conf. Rep. No. 651, 103d Cong., 2d Sess. 57 (1994). By expressly providing for office-retention in section 1831u(d)(1) and then incorporating that into the McFadden Act in section 36(d), Congress clearly intended that those provisions apply to branch retention in interstate merger transactions under section 1831u, rather than the complex branch retention provisions of section 36(b)(2). Of course, section 36(b)(2) continues to govern branch retention in national bank mergers that are not entered into under section 1831u, including mergers involving an interstate bank (such as a merger of an interstate bank into another national bank in its home state).

Moreover, at its branches in Florida, Indiana, West Virginia, and Michigan, as well as at those in Ohio and Kentucky, Huntington is authorized to engage in all activities permissible for national banks, including fiduciary activities. See, e.g., 12 U.S.C. §§ 215a-1 (Riegle-Neal mergers with a resulting national bank occur under the National Bank Consolidation and Merger Act), 215a(e) (the resulting national bank in a merger succeeds to all the rights, franchises and interests, including fiduciary appointments, of the merging banks), & 1831u(d)(1) (continued operations at retained interstate branches). See also OCC Interpretive Letter No. 695 (December 8, 1995) (national banks may engage in fiduciary business at trust offices and branches in different states). Cf. 12 U.S.C. § 36(f) (general provisions for host state laws applicable to branches in the host state of out-of-state national banks).

B. The Subsequent Trust Merger of HTC and HTCF into Huntington is permissible under 12 U.S.C. § 215a.

Once the Interstate Merger is consummated, Huntington will have its main office in Ohio and branches in Ohio, Florida, Kentucky, Indiana, Michigan, and West Virginia. Immediately after the Interstate Merger, Huntington will merge HTC, whose main office is in Ohio, and HTCF, whose main office is in Florida, into Huntington. This subsequent merger is authorized under 12 U.S.C. § 215a.⁹ This transaction is a merger between an interstate national bank and two other banks in two of the states in which the interstate bank has branches. The OCC previously has considered such applications under sections 215a and 36(b). As discussed in section B-2 below, the Riegle-Neal Act did not change existing authority under sections 215a and 36(b). These mergers do not raise new issues, but only the application of established precedent for applying sections 215a and 36(b) to interstate national banks.

1. The merger is authorized under section 215a.

Mergers of national banks, and of state banks into national banks, are authorized under 12 U.S.C. § 215a. Section 215a provides in relevant part:

One or more national banking associations or one or more State banks, with the approval of the Comptroller, under an agreement not inconsistent with this subchapter, may merge into a national banking association located within the same State, under the charter of the receiving association.

12 U.S.C. § 215a(a) (emphasis added). In many prior decisions, both before and after the Riegle-Neal Act, the OCC has interpreted and applied this section with respect to mergers with an

⁹ HTC and HTCF are national banks limited to fiduciary and related activities and are not insured banks. As national banks, however, their authority to enter mergers remains authorized by 12 U.S.C. § 215a. But, as noted earlier in note 1, their merger into Huntington is reviewed under the Bank Merger Act by the FDIC.

existing interstate national bank.¹⁰ We concluded that, just as for branching purposes under section 36, a national bank with its main office and branch offices in more than one state was "located" in each such state, for the purpose of mergers with other banks in that state under 12 U.S.C. § 215a (mergers) or 12 U.S.C. § 215 (consolidations). This reading is consistent with the plain meaning of the statute and its legislative history. It is also supported by judicial construction of "situated" in section 36(c) and similar locational phrases in other sections of the National Bank Act. Any other reading could render section 215a largely unworkable in the case of interstate banks. Finally, the Riegle-Neal Act itself suggests that subsequent mergers in a state by a Riegle-Neal interstate bank may occur under relevant law for in-state mergers. See 12 U.S.C. § 1831u(d)(2). The reasoning and support for this position are extensively set out in the earlier OCC decisions, such as those in note 10.

After the Interstate Merger, Huntington will be located, for purposes of section 215a, in Ohio by virtue of its main office and branches there, and also in Florida by virtue of its branches there. It may then merge with other banks located in those states, such as HTC and HTCF. In addition, Huntington will succeed to the fiduciary appointments and activities of HTC and HTCF through the merger by operation of the statute. See 12 U.S.C. § 215a(e). Accordingly, the Subsequent Trust Merger is authorized under 12 U.S.C. § 215a.¹¹

2. This existing authority for national banks under 12 U.S.C. § 215a continues after the Riegle-Neal Act.

Our analysis of the legal authority for the merger of HTC and HTCF into Huntington is based on pre-existing law for national banks, in particular 12 U.S.C. § 215a. The Riegle-Neal

¹⁰ See, e.g., Decision on the Application to Merge Fleet Bank of New York, N.A. with NatWest Bank N.A. (OCC Corporate Decision No. 96-20, April 12, 1996) ("OCC Fleet/NatWest Decision"); Decision on the Application to Merge Bank and Trust Company of Old York Road into Midlantic Bank, N.A. (OCC Corporate Decision No. 95-18, May 25, 1995) ("OCC Midlantic/Old York Decision"); Decision on the Applications of Bank Midwest of Kansas, N.A., and Bank Midwest, N.A. (OCC Corporate Decision No. 95-05, February 16, 1995), reprinted in Fed. Banking L. Rep. (CCH) ¶ 90,474 ("OCC Bank Midwest Decision"); Decision on the Applications of First Fidelity Bank, N.A. (Pennsylvania) and First Fidelity Bank, N.A. (New Jersey) (OCC Corporate Decision No. 94-04, January 10, 1994), reprinted in [1993-1994 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 89,644; Decision on the Application of State Savings Bank, Southington, Connecticut, to Convert into a National Banking Association and Merge into Connecticut National Bank, Hartford, Connecticut (OCC Merger Decision No. 91-07, April 8, 1991) ("OCC Shawmut Decision") (at the time of conversion, State Savings Bank had branches in Rhode Island); Decision on the Application to Merge Girard Bank, Bala Cynwyd, Pennsylvania, into Heritage Bank, N.A., Jamesburg, New Jersey (March 27, 1984), reprinted in [1983-84 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 99,925.

¹¹ The main office of HTC is located at the main office of Huntington. The main office of HTCF is located at a branch office of HNBK. Similarly, HTC's nonbranch trust offices in Ohio (except for one in Lima, Ohio), and HTCF's nonbranch trust offices in Florida are located at branches of Huntington and HNBK that will be branches of Huntington after the Interstate Merger. After the Subsequent Trust Merger, the trust operations of HTC and HTCF at those locations will be integrated into the relevant offices of Huntington. Therefore, in the Subsequent Trust Merger, Huntington has not sought approval for the HTC and HTCF locations as separate branches under 12 U.S.C. §§ 36(b) & 36(c) or as separate nonbranch trust offices. Huntington will continue to operate HTC's nonbranch trust office in Lima. Huntington's retention of its own branches in the Subsequent Trust Merger is authorized under 12 U.S.C. § 36(b)(2)(C).

Act did not alter this provision, did not change the legal analysis and result under it, and indeed confirmed it. The statutory language and legislative history in the Riegle-Neal Act clearly contemplate that existing authority under section 215a and section 36(b) & (c) remains in effect. The language of these sections is not changed, and the legislative history contains no indication of any intent to modify the operation of these sections. Moreover, nothing in the new sections added in the Riegle-Neal Act (in particular the provision on exclusive authority for additional branches, 12 U.S.C. § 36(e), discussed below) conflicts with any authority in these sections.

The statutory changes and legislative history of the Riegle-Neal Act show that Congress was completely aware of the OCC's prior interstate decisions. OCC decisions prior to the Riegle-Neal Act addressed interstate mergers and involved issues and analysis of sections 36 and 215a. In the Riegle-Neal Act, Congress did not change sections 36(b), 36(c), or 215a or express any disagreement with OCC's interpretation and application of them. Nor does the new section 44 authority for interstate merger transactions in the Riegle-Neal Act and the corresponding new provision authorizing national banks to engage in section 44 mergers, 12 U.S.C. § 215a-1, supplant existing merger authority possessed by national banks. Review of the statutory framework and legislative history shows that the intended operation of section 44 and section 215a-1 is that they are a separate and parallel source of authority for interstate merger transactions. They will allow interstate mergers after June 1, 1997, overriding any conflicting state laws. Section 44 permits states to opt-out or to opt in early. But it does not supplant existing federal laws for national banks that allow some forms of interstate transaction *with a bank that is already interstate*. Indeed, the Riegle-Neal Act itself suggests that subsequent mergers in a state by a Riegle-Neal interstate national bank are to occur under section 215a. See 12 U.S.C. § 1831u(d)(2).

We therefore find no basis to conclude that the Riegle-Neal Act supersedes existing law for national banks in ways other than those explicitly set out in section 36(e), which is not relevant here.¹² Thus, a transaction that can come under other existing authority continues to be authorized under that authority, provided it is consistent with the provision on exclusive authority for additional branches in section 36(e). Such is the case here. In the Subsequent Trust Merger, section 36(e)(1) is complied with, in the first instance, because Huntington is not obtaining any additional branches and, even if it were, such branches would be permissible because Huntington already has branches in Ohio and Florida and the target bank's branches would be retained and

¹² That provision provides in relevant part:

Effective June 1, 1997, a national bank may not acquire, establish, or operate a branch in any State other than the bank's home State (as defined in subsection (g)(3)(B)) or a State in which the bank already has a branch unless the acquisition, establishment, or operation of such branch in such State by such national bank is authorized under this section or section 13(f), 13(k), or 44 of the Federal Deposit Insurance Act.

12 U.S.C. § 36(e)(1) (emphasis added). This aspect of the relationship of the Riegle-Neal Act and existing law is discussed further in the OCC Midlantic/Old York Decision (Part II-C) and the OCC Fleet/NatWest Decision (Part II-C). See also OCC Bank Midwest Decision (Part II-D, pages 56-61) (general discussion of relationship of Riegle-Neal Act provisions and existing national bank statutes).

operated under the authority of section 36(b), a part of “this section” referred to in section 36(e)(1). Accordingly, the Subsequent Trust Merger can occur under section 215a.

III. ADDITIONAL STATUTORY AND POLICY REVIEWS

A. The Bank Merger Act.

The Bank Merger Act (“Act”), 12 U.S.C. § 1828(c), requires the OCC's approval for any merger between insured banks where the resulting institution will be a national bank. Under the Act, the OCC generally may not approve a merger which would substantially lessen competition. In addition, the Act also requires the OCC to take into consideration the financial and managerial resources and future prospects of the existing and proposed institutions, and the convenience and needs of the community to be served. For the reasons stated below, we find the Interstate Merger may be approved under section 1828(c). (The Subsequent Trust Merger was subject to approval by the FDIC under the Bank Merger Act, see note 1 above.)

1. Competitive Analysis.

Since Huntington and the Target Banks are already owned by the same bank holding company, their merger will have no anticompetitive effects.

2. Financial and Managerial Resources.

The financial and managerial resources of all the banks are presently satisfactory. Huntington expects to achieve efficiencies by operating the offices in the different states as branches rather than as separate corporate entities. The geographic diversification of its operations will also strengthen the combined bank. The future prospects of the existing institutions, individually and combined, are favorable. Thus, we find the financial and managerial resources factor is consistent with approval of the Interstate Merger.

3. Convenience and Needs.

Huntington, the resulting bank, will help to meet the convenience and needs of the communities to be served. Huntington will continue to serve the same areas in Ohio and Kentucky where it has branches and in all the other states where the merging Target Banks have offices. All the Target Banks currently offer a full line of banking services, and there will be no reductions in the products or services as a result of the merger. The combined bank will continue to offer a full line of banking products and services. All the branches of the combined bank will continue to engage in the same business, serving the same communities, as the participating banks did before the merger.

Upon completion of the Interstate Merger, customers of each bank will have available to them a significantly greater number of branches at which to bank. Currently, banking is not as convenient as it could be for customers who frequently travel across the state lines or for business customers who have operations in more than one state. Following the merger, customers would

be dealing with the same bank in the different states and will be able to readily access their accounts with greater convenience. Especially benefitting will be those customers who live in one state and work in another. The mergers will permit the resulting bank to better serve its customers and at a lower cost. The combined resources, including capital and reserves, of the currently separate banks will provide a more substantial capital cushion for unexpected losses as well as provide business customers with a higher legal lending limit.

No branch closings are contemplated as a result of the Interstate Merger since Huntington and the Target Banks serve different areas. However, as part of its ongoing business plans, Huntington evaluates its branch system, including branches acquired in transactions, and, as a part of the normal course of business, may close redundant or unprofitable branches. Any such closures will be made in accordance with applicable statutes and regulations, including notification of customers of the branches, and will consider the needs of the community affected.

Accordingly, we believe the impact of the merger on the convenience and needs of the communities to be served is consistent with approval of the Interstate Merger.

B. The 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 their entire communities, including low- and moderate-income neighborhoods, when evaluating certain applications. See 12 U.S.C. § 2903. Based on the most recent examinations, Huntington, HNBF, HNBI, and HNBWV have satisfactory ratings, and HBM has an outstanding rating, with respect to CRA performance. HTC and HTCf, as uninsured trust banks, were not subject to the CRA. No public comments were received by the OCC relating to the application, and the OCC has no other basis to question the banks' performance in complying with the CRA.

The mergers are not expected to have any adverse effect on the resulting bank's CRA performance. The resulting bank will continue to serve the same communities that the merging banks currently serve. Huntington will continue its current CRA programs and policies in Ohio and Kentucky. Following the mergers, the Target Banks' offices will remain open as branches of Huntington. Huntington will carry forward the same CRA programs and policies that it has today and will add other programs developed by the Target Banks. Moreover, Huntington has represented that it will honor all CRA-related commitments made by the Target Banks to community organizations, civic associations, and similar entities concerning providing banking services to the community in the relevant market areas. As a general matter, the resulting bank will have the same commitment to helping meet the credit needs of all the communities it serves as Huntington and the Target Banks have today as separate banks. The mergers and operation of interstate branches do not alter the resulting bank's obligation to help meet the credit needs of its communities in all the states it serves. We find that approval of the proposed mergers are consistent with the Community Reinvestment Act.

IV. CONCLUSION AND APPROVAL

For the reasons set forth above, including the representations and commitments made by the applicants, we find that the Interstate Merger of Huntington, HNBF, HNBI, HNBWV, and HBM is legally authorized as an interstate merger transaction under the Riegle-Neal Act, 12 U.S.C. §§ 215a-1 & 1831u(a), the resulting bank is authorized to retain and operate the offices of Huntington and the Target Banks under 12 U.S.C. §§ 36(d) & 1831u(d)(1), the Subsequent Trust Merger of HTC and HTCF into Huntington is authorized under 12 U.S.C. § 215a, and finally that the proposal meets the other statutory criteria for approval. Accordingly, these mergers are hereby approved.

_____/s/_____
Julie L. Williams
Chief Counsel

____06-04-97_____
Date

Application Control Number: 97-CE-02-0008