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Comptroller of the Currency  
Administrator of National Banks

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Washington, DC 20219

**Corporate Decision #98-36**  
**July 1998**

**DECISION OF THE OFFICE OF THE COMPTROLLER OF THE CURRENCY  
ON THE APPLICATION BY BANKBOSTON, N.A.,  
BOSTON, MASSACHUSETTS  
TO ESTABLISH A BRANCH IN WALLINGFORD, CONNECTICUT**

**June 19, 1998**

**I. Introduction**

On April 3, 1998, BankBoston, N.A., Boston, Massachusetts (the Bank), applied to the Office of the Comptroller of the Currency (OCC) to establish a branch at 976 North Colony Road, Wallingford, New Haven County, Connecticut. During the public comment period, two comments were received in response to this application. The following analyzes the legality of the proposed branch and the Bank's record of compliance with the Community Reinvestment Act and addresses other issues raised by the commenters.

**II. Legal analysis**

Though the Bank has its main office in Massachusetts, it has branches in Connecticut as a result of two acquisitions of banks with offices in Connecticut.<sup>1</sup> Because it already has branches in Connecticut, the Bank may establish additional branches in that state in accordance with Connecticut branching law applicable to state banks and applied to national banks.<sup>2</sup> Under Connecticut law, no geographic limits exist regarding intrastate branch establishment.<sup>3</sup>

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<sup>1</sup> See OCC Corporate Decision 96-42 (August 6, 1996) (permitting Bank Boston to acquire BayBank and retain its existing branches including those in Connecticut); OCC Corporate Decision 97-91 (October 14, 1997) (permitting BankBoston to acquire Bank of Boston Connecticut and retain its branches).

<sup>2</sup> See 12 U.S.C. § 36(c), (f)(1)(A). See also *Seattle Trust & Savings Bank v. Bank of California, N.A.*, 492 F.2d 48, 51 (9th Cir. 1974), *cert. denied*, 419 U.S. 844 (1974); *Ghiglieri v. Sun World, N.A.*, 117 F.3d 309, 315-16 (5th Cir. 1997).

<sup>3</sup> Conn. Gen. Stat. Ann. § 36a-145(b)(1) (1996 & Supp. 1998). In addition, we note that one commenter asserted that if a state chartered-bank had applied to open the same branch under the same circumstances it would not be permitted under state law. That commenter, following inquiry from the OCC, stated, however, that in making

### **III. Compliance with Community Reinvestment Act**

The Community Reinvestment Act (CRA) requires the OCC to take into account the applicant's record of helping to meet the credit needs of its entire community, including low- and moderate-income (LMI) neighborhoods, when evaluating certain applications including branch applications. See 12 C.F.R. § 25.29(a). A bank's record of CRA performance may be the basis for denying or conditioning approval of an application. In assessing the record of performance under the CRA, the OCC reviews information available from the CRA examination<sup>4</sup> and considers comments received from the public and the applicants' responses to those comments. In the event an adverse comment on an expedited filing<sup>5</sup> contains information that will prolong the OCC's analysis of the bank's CRA record of performance, the OCC removes the filing from expedited review.

The OCC received two adverse comments on the Wallingford branch application in reaction to the Bank's concurrent plan to close the Goodwin Park branch in Hartford. The letters were signed by several State Representatives and Senators, City of Hartford elected officials, and community leaders. The letters indicated the new branch should not be opened at the expense of a Hartford branch closing and requested the OCC to consider the Bank's CRA performance in light of other planned branch closings in urban low- and moderate-income (LMI) areas.<sup>6</sup>

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that comment he was relying on proposed legislation that Connecticut has not been enacted into law.

Connecticut branching law also sets forth several factors to be taken into consideration in deciding on a branch application. These factors pertain to compliance with community reinvestment and consumer protection laws, competition, safety and soundness, long-term plans for the branch, and the bank's lending record in the state. Conn. Gen. Stat. Ann. §§ 36a-145(b)(1), (2), (3); 36a-34(b); 36a-30 through 33; and 47a-21(h). Even if applicable, a review of these factors demonstrates that they are consistent with approval of this proposal.

<sup>4</sup> Under the CRA, the OCC evaluates performance using performance criteria relative to the bank's lending, investment, and services. In these evaluations, the OCC considers the institution's capacity and constraints, including the size and financial condition of the bank and its subsidiaries.

<sup>5</sup> The OCC generally provides expedited review of applications if the applicant is in healthy condition and has a CRA rating of Satisfactory or Outstanding. Expedited review means that an application will be considered approved through the passage of time as of the 15th day after the close of comment period, unless the OCC acts sooner on the application, formally extends the expedited review period, or removes the application from the expedited review process. Once removed from expedited review, a filing must be decided by the OCC prior to the applicant proceeding with its proposal.

<sup>6</sup> One of the letters also requested that the OCC conduct a public hearing on the application. The OCC determined written submissions were an adequate means to address the matters raised in that request and determined a public meeting was not necessary. The OCC also denied a request to convene a meeting regarding the closing of the Goodwin Park branch with members of the community as described in 12 USC § 1831r-1(d)(2) since the branch was not located in a LMI area. However, the OCC has offered to arrange an informal meeting to discuss the availability of banking services in the area served by the branch.

The commenters allege such closings would “handicap” the Bank’s capacity to meet the credit needs of the affected communities. On May 15, 1998, the OCC removed the branch filing from expedited review in order to conduct an investigation of the Bank’s branch opening and closing policies and practices.

In the most recent CRA performance evaluation of the Bank issued in January 1997,<sup>7</sup> the OCC rated the Bank’s performance outstanding and indicated its branch locations provided reasonable access to all segments of the community. Further, the OCC determined that the Bank’s branch closings from the previous two years had not adversely affected the availability of services to the Bank’s communities. In response to comments received concerning the Bank’s proposal to close its Woods Hole branch in Massachusetts, in September 1997, the OCC analyzed the Bank’s record of opening and closing branches since the January 1997 CRA examination. The OCC concluded that the bank’s policies concerning branch opening/closings remained in compliance with OCC guidelines and that the Bank’s practices conformed to those policies. While branch closings and consolidations affected all income levels of census tracts equally, the OCC found that branch closing and consolidations after the acquisition of BayBank, N.A. resulted in a branch network with proportionally more branches in LMI areas since the last CRA exam. Overall, the Bank’s network continued to provide reasonable financial service access to its assessment area.

In May 1998, in response to the comments described above, the OCC reviewed the Bank’s record of opening and closing branches in Connecticut since the September 1997 analysis and found no concerns. The investigation disclosed no net change in the distribution of branches between LMI areas and middle- and upper-income areas and no evidence of a systematic movement of branches from urban to suburban areas as alleged by commenters. The bank also continued to adhere to its comprehensive branch closing policy and did so with respect to the Goodwin Park branch closing. According to its policy, when making a decision to close any branch, the Bank reviews the demographics of the customer base and evaluates how the banking needs of that specific community can be addressed in the future. Once the decision to close a branch is made, the Bank holds discussions with community groups and leaders, and then develops an action plan to minimize the impact to the community.

Based on the review discussed above, the OCC concludes that approval of this branch application is consistent with CRA considerations.

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<sup>7</sup> The Bank was evaluated under the twelve assessment factors established by the CRA in effect prior to July 1, 1997.

**IV. Conclusion and approval**

For the reasons set forth above, we find that the branch proposed by Bank Boston, N.A., Boston, Massachusetts, at 976 North Colony Road, Wallingford, New Haven County, Connecticut, is legally authorized and meets the other statutory criteria for approval. Accordingly, this application is hereby approved.

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Raymond Natter  
Acting Chief Counsel

\_\_\_\_\_06-19-98\_\_\_\_\_  
Date

Application Control Number: 98-ML-05-0112