



Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

Corporate Decision #99-31
September 1999

July 23, 1999

Mr. Richard J. Hidy
Vice President and Deputy General Counsel
Firststar Bank, National Association
425 Walnut Street, Mail Location 9140
P.O. Box 1038
Cincinnati, Ohio 45202

Re: Application to Merge Mercantile Bancorporation, Inc. Affiliated Banks
with and into Firststar Bank, National Association, Cincinnati, Ohio
Application Control Number: 1999-CE-02-0023

Dear Mr. Hidy:

This is to inform you that on July 23, 1999, I approved the application to merge Mercantile Bank, National Association, St. Louis, Missouri ("MB St. Louis"), Mercantile Bank, Overland Park, Kansas ("MB Kansas"), Mercantile Bank of Arkansas, National Association, North Little Rock, Arkansas ("MB Arkansas"), Mercantile Bank Midwest, Des Moines, Iowa ("MB Iowa"), Mercantile Bank of Kentucky, Paducah, Kentucky ("MB Kentucky"), Mercantile Bank of Trenton, Trenton, Missouri ("MB Trenton"), Mercantile Bank of Illinois, Springfield, Illinois ("MB Illinois"), and Mercantile Trust Company, National Association, St. Louis, Missouri ("Mercantile Trust") with and into Firststar Bank, National Association, Cincinnati, Ohio ("Firststar").

This approval is granted based on a thorough review of all information available, including commitments and representations made in the application, the merger agreement and those of the banks' representatives. Pursuant to the application, the bank mergers will not take place until after the merger of Firststar Corporation and Mercantile Bancorporation, Inc.

Firststar already operates branches in Iowa, Kentucky, and Illinois, as well as Ohio.¹ The mergers of MB Iowa, MB Kentucky, and MB Illinois into Firststar are authorized under

¹ Firststar's branches in these states are the result of earlier transactions. See Decision on the Applications to Merge Firststar Bank Milwaukee, National Association, and Seven Other Affiliated Banks with Star Bank, National Association, Cincinnati, Ohio (OCC CRA Decision No. 82, December 23, 1998) ("Firststar/Star Bank Decision").

12 U.S.C. § 215a, and Firststar may retain and operate the main offices and branches of the merging banks as branches under 12 U.S.C. § 36(b)(2).² The mergers of MB St. Louis, Mercantile Trust, MB Trenton, MB Kansas, and MB Arkansas into Firststar are legally authorized as interstate merger transactions under the Riegle-Neal Act, 12 U.S.C. §§ 215a-1 and 1831u(a), and Firststar may retain and operate the main offices and branches of the participating banks under 12 U.S.C. §§ 36(d) and 1831u(d)(1). Accordingly, the proposed mergers and retention of branches are legally authorized.

As you know, the Federal Reserve Bank of Chicago received two comment letters on July 12, 1999 concerning the application to merge Firststar Corporation and Mercantile Bancorporation, Inc. The Office of the Comptroller of the Currency ("OCC") removed the filing from its expedited review process in order to address those comments.³

One commenter alleged that Firststar's agricultural lending and participation in state and local government programs were continuing to decline in Wisconsin. This commenter previously raised these same concerns during the processing of the Firststar/Star Bank merger proposal.⁴ In connection with the Firststar/Star Bank application, the examiners reviewed these concerns and determined that Firststar was an active agricultural lender in Wisconsin. In its most recent letter, the commenter provided additional data, through April 30, 1999. OCC examiners reviewed the commenter's recent data and determined that their conclusion from the prior investigation, as discussed above, remains unchanged: Firststar continues to be an active agricultural lender in Wisconsin.

One commenter was concerned with the 1997 denial disparity ratios between blacks and whites on conventional home purchase mortgage applications in the Milwaukee and Chicago MSAs. The OCC previously reviewed the 1997 denial disparity ratios in the Milwaukee/Racine MSA during its investigation of the Firststar/Star Bank merger proposal. The examiners reviewed the percentage of Firststar's lending to minority segments of the population and determined that Firststar's percentage of lending to minorities was reasonably consistent with the racial composition of the population. In addition, the last OCC fair lending examination of Firststar,

² See, e.g., Decision on the Application to Merge NationsBank of Texas, N.A., Dallas, Texas, into NationsBank, N.A., Charlotte, North Carolina (OCC Corporate Decision No. 98-19, April 2, 1998) (Part II-A-1) (pages 5-17) (authority under sections 215a and 36(b) with respect to out-of-state banks that already have branches in a state). See also *Ghiglieri v. NationsBank of Texas, N.A.*, No. 3:97-CV-2897-P, 1998 U.S. Dist. LEXIS 6637 (N.D. Texas filed May 6, 1998) (memorandum opinion and order denying preliminary and permanent injunction).

³ The OCC did not investigate concerns that were not relevant to this bank merger application such as the Iowa deposit cap and the alleged early integration of the bank holding companies.

⁴ See Firststar/Star Bank Decision.

July 23, 1999

Firststar Bank, N.A.

Application Control Number: 1999-CE-02-0023

Page 3

conducted in 1997, included a comparative file review of minority conventional home purchase mortgage loan applications and did not identify any fair lending concerns.

In response to the concerns raised by the commenter regarding Firststar's denial disparity ratios in the Chicago MSA, OCC examiners reviewed Home Mortgage Disclosure Act ("HMDA") data for the Chicago MSA.⁵ While the denial rate on conventional and home purchase mortgages for blacks was significantly greater than the denial rate for whites, the denial rate for blacks by Firststar was slightly less than the denial rate by all lenders in the Chicago MSA. HMDA data alone are inadequate to provide a basis for concluding that a bank is engaged in lending discrimination or in indicating whether its level of lending is sufficient. However, denial disparity ratios are of concern to the OCC and are routinely evaluated in fair lending examinations. Accordingly, the OCC will consider the denial disparity ratios identified by the commenter in determining the scope of the OCC's next fair lending examination of the resulting bank.

Therefore, the OCC's review of the relevant issues raised by the commenters indicates that approval is consistent with the Community Reinvestment Act.

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 before consummating the combination, as adjusted for the combination. The resulting bank will then file a new Call Report and begin calculating its legal lending limit according to 12 CFR § 32.4(a) at the end of the quarter following consummation of the combination.

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

- 1) A Secretary's Certificate from each applicant institution certifying that a majority of the Board of Directors has agreed to the proposed merger;
- 2) A Secretary's Certificate from each institution certifying that the shareholder approvals have been obtained; and
- 3) An executed merger agreement with Articles of Association for the resulting bank attached.

The Central District Office 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

⁵ In reviewing the Home Mortgage Disclosure Act data, the examiners combined information for Firststar Bank of Illinois (a state bank), Firststar Bank Milwaukee, NA, Firststar Bank USA, NA, and Firststar Home Mortgage Corporation (a subsidiary of Firststar Bank Milwaukee, NA).

of the merger must be on or after the approval date and the receipt of other required regulatory approvals.

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.

All correspondence regarding this application should reference the application control number. If you have any questions concerning this letter, please contact National Bank Examiner Greg Parvin at (202) 874-5060 or Senior Corporate Analyst Carolina Ledesma in our Central District Office at (312) 360-8850.

Sincerely,

/s/

Julie L. Williams
Chief Counsel