



Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

CRA Decision #92
April 1999

**DECISION OF THE COMPTROLLER OF THE CURRENCY ON THE
APPLICATION TO MERGE PNC NATIONAL BANK (“PNC”), WILMINGTON,
DELAWARE, WITH AND INTO MBNA AMERICA BANK, NATIONAL
ASSOCIATION (“MBNA”), WILMINGTON, DELAWARE, UNDER THE TITLE
AND CHARTER OF THE LATTER**

March 13, 1999

Introduction

On January 14, 1999, application was made to the Comptroller of the Currency for prior authorization under 12 U.S.C. § 215a and § 1828(c) to merge PNC National Bank (“PNC”), Wilmington, Delaware, a CEBA credit card bank, with and into MBNA America Bank, National Association (“MBNA”), Wilmington, Delaware, under the title and charter of the latter, in connection with the acquisition of PNC by MBNA. This application was based on an agreement between PNC Bank, National Association and MBNA Corporation on December 22, 1998 and an undated agreement between PNC and MBNA, to be executed upon the acquisition of PNC stock by MBNA.¹

Participating Financial Institutions

As of September 30, 1998, PNC, a national bank which engages in the activities of a national credit card bank as defined in the Competitive Equality Banking Act of 1987, had total deposits of \$16.3 million and operated one office. On the same date, MBNA had total deposits of \$14,361.6 million and operated three offices. MBNA is 100% owned and controlled by MBNA Corporation, a multi-bank holding company. PNC is 100% owned and controlled by PNC Bank, National Association.

Competitive Analysis

¹ The OCC determined that pursuant to 12 CFR § 5.50(c)(2)(iii), this transaction is exempt from the notice requirements of the Change in Bank Control Act (12 U.S.C. § 1817(j)).

The OCC has reviewed the competitive effects of this proposal by using its standard procedures for determining whether a business combination clearly has minimal or no adverse competitive effects. The OCC finds that the proposal satisfies its criteria for a merger that clearly has no or minimal adverse competitive effects.

Banking Factors

The Bank Merger Act (12 U.S.C. 1828(c)) requires the OCC to consider "...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." We find that the financial and managerial resources of MBNA and PNC do not raise concerns that would cause the application to be disapproved. The future prospects of the proponents, individually and combined, are considered favorable and the resulting bank is expected to meet the convenience and needs of the community to be served. MBNA currently operates on a nationwide basis and will continue to help meet the credit card needs of the combined customer base. The bank has indicated that it will not reduce the number of products offered or customer services because of the proposed merger. PNC's former head office located at Suite 200, 300 Bellevue Parkway, Wilmington, Delaware will not be retained as a branch.

Community Reinvestment Act

The Community Reinvestment Act (the "CRA") requires the OCC to take into account the applicants' records of helping to meet the credit needs of their entire communities, including low- and moderate-income neighborhoods, when evaluating certain applications.² The types of applications that are subject to review under the CRA include purchase and assumption transactions and mergers.³ The OCC considers the CRA performance of each depository institution involved in the transaction. Under the CRA regulation, the OCC evaluates performance using criteria relative to the bank's lending, investments, and services.⁴ In these evaluations, the OCC considers the institution's capacity and constraints, including the size and financial condition of the bank and its subsidiaries.

MBNA received an Outstanding CRA rating in August 1995. PNC was chartered in December 1996 and has not received a CRA examination or rating. A review of the record of this application and other information available to the OCC as a result of its regulatory

² 12 U.S.C. § 2903.

³ 12 CFR§ 25.29(a)(3).

⁴ Since MBNA and PNC have been designated limited purpose banks for purposes of CRA, they are evaluated under the community development test through their community development lending, qualified investments, or community development services.

responsibilities has revealed no evidence that the applicants' records of helping to meet the credit needs of their communities, including low- and moderate-income neighborhoods, are less than satisfactory.

The OCC received a joint comment from two community organizations raising numerous concerns regarding MBNA's CRA performance.⁵ The OCC removed the filing from expedited review in order to have sufficient time for national bank examiners to investigate those concerns on-site.⁶ The results of the OCC's investigation into those concerns are discussed below. In summary, our investigation and analysis of the issues raised indicated no basis for denying or conditioning the approval of this application or for an extension of the comment period or further delay in processing the application.

The commenters raised a concern that the bank's defined assessment area, New Castle County, was too narrow. The OCC examiners investigated this concern and concluded that MBNA's assessment area was consistent with the requirements of the CRA regulation, 12 CFR § 25.41. The examiners also noted that most of the other limited purpose banks located in Wilmington use the same assessment area.

The commenters expressed concerns with MBNA's level of community development loans and alleged lack of support for housing or small business counseling. The commenters also alleged that MBNA has insulated itself from the non-profit sector and has not been adequately involved with small business consortia. The OCC examiners reviewed the bank's records and determined that the bank's records reflected community development loans and investments, including grants, totaling \$263 million since September 1995, the date of the last CRA examination; approximately \$152 million of these community development loans and investments were within the assessment area. The examiners also found that over 20 Delaware non-profit organizations received over \$5.5 million in direct grants since September 1995 from MBNA to support affordable housing and economic development programs. MBNA's records

⁵ The commenters questioned MBNA's limited purpose designation since the bank extended credit card loans to small businesses. The commenters also raised concerns with MBNA's home mortgage lending. The OCC examiners have confirmed that MBNA does not originate home mortgages, but has recently begun to purchase participations in such loans from an affiliated bank. While the OCC is currently reviewing the applicability of MBNA's limited purpose designation, such designation would remain in effect until one year after the OCC notifies the bank that the OCC has revoked the designation. See 12 CFR § 25.25(b). Accordingly, the OCC will evaluate the bank under the community development test in an upcoming examination. The commenters also raised concerns about the bank's low percentage of small business credit card loans in low and moderate income areas inside MBNA's assessment area and the bank's distribution of credit card loans. MBNA's last CRA Performance Evaluation, conducted under a previous version of the OCC's CRA regulations, indicated that the bank's geographic distribution of loans was reasonable. Since that examination, MBNA was designated a limited purpose bank by the OCC and is now evaluated under the community development test which does not consider distribution of credit card loans.

⁶ The commenters asked for an extension of the comment period beyond the February 12 closing date. The OCC considered comments received on February 22 from the commenters and MBNA.

also reflected that since September 1995, the bank has financially supported (directly or indirectly) all seven of the HUD-certified housing counseling agencies in Delaware. In addition, the bank has committed to invest over \$28 million in small business-related programs since the last CRA examination, including one loan fund that provides intensive counseling services to borrowers. We found that MBNA has made community development loans and investments in its assessment area and that it has supported local nonprofit organizations in their affordable housing and economic development efforts.

The commenters alleged that MBNA violated the Equal Credit Opportunity Act by not providing reasons for denial on adverse action notices and that MBNA's credit outreach to married individuals is disproportionately targeted to the husband. The OCC examiners noted that neither MBNA's last compliance examination nor MBNA's internal audit reports have uncovered violations relating to adverse action notices. With respect to solicitations, the commenters provided no information to support its concern that MBNA disproportionately targets the husband and we found no evidence during our targeted review. However, the credit card solicitation process used by MBNA will be reviewed during the upcoming CRA examination.

The commenters noted that the Department of Labor ("DOL") recently charged MBNA with a pattern of discrimination in hiring. We found the DOL's concerns, relating to part-time telemarketers, have not been resolved. We found no information that these employment issues would have a material adverse effect on MBNA's CRA or fair lending performance. Our investigation found no information in MBNA's record with respect to the fair lending or consumer protection laws that is inconsistent with approval of this application.

Based on the OCC's investigation and all other facts of record, we find that approval of the proposed transaction is consistent with the CRA.

Conclusion

The legal, policy and procedural requirements for the proposal are satisfied. The banks are in satisfactory condition and the transaction is consistent with the Community Reinvestment Act. We have analyzed this proposal pursuant to the Bank Merger Act (12 U.S.C. 1828(c)) and 12 CFR § 5.33. Accordingly, the application is approved.

_____/s/
Julie L. Williams
Chief Counsel

03-15-99
Date

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