



Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

Conditional Approval #676
March 2005

February 15, 2005

Mr. James E. Scott
Senior Regulatory Counsel
Citigroup, Inc.
425 Park Avenue, Second Floor
New York, NY 10043

Re: Application from First American Bank, SSB, Bryan, Texas, to convert to a national bank.
Application Control Number: 2004-ML-01-0005

Dear Mr. Scott:

The Office of the Comptroller of the Currency (“OCC”) has reviewed the application, dated September 20, 2004, to convert First American Bank, SSB, Bryan, Texas (“FAB” or “Bank”), a state savings bank, to a national bank with the title Citibank Texas, National Association (the “Resulting Bank”), to be located in Dallas, Texas.¹ FAB also sought to obtain fiduciary powers, retain certain operating subsidiaries and equity investments, and retain all of its Texas branches.

The application stated that immediately after converting to a national bank, Citibank Texas, National Association will be acquired by Citigroup, Inc., New York, New York (“Citigroup”). In this regard, Citigroup has filed an application with the Federal Reserve Bank of New York to acquire the Resulting Bank.

After a thorough review of all information available, and reliance upon the representations and commitments made in the application and by the Bank’s representatives, we find that the application meets the requirements for approval to convert to a national bank under 12 U.S.C. § 35 and 12 C.F.R. § 5.24. Therefore, please be advised that the application is hereby approved subject to the following conditions:

1. FAB shall not effect the conversion to a national bank charter until: (a) Citigroup has obtained all required regulatory approvals for its acquisition of FAB, (b) all post

¹ FAB plans to relocate its main office to an existing branch in Dallas, Texas, immediately before converting to a national bank. The State of Texas and Federal Deposit Insurance Corporation have approved the main office relocation. FAB will not retain its existing main office as a branch.

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Federal Reserve approval waiting periods applicable to Citigroup's acquisition of FAB have expired, and, (c) Citigroup provides written confirmation that its acquisition of FAB will occur immediately subsequent to FAB's conversion to a national bank.

2. The Resulting Bank shall take all steps necessary to ensure that the commitments set forth in the December 29, 2004, letter from FAB to the OCC are fully adopted and timely implemented.

Please be advised that the conditions of this approval are conditions "imposed in writing by the agency in connection with the granting of any application or other request" within the meaning of 12 U.S.C. § 1818 and, as such, are enforceable under 12 U.S.C. § 1818.

Legal and Policy Factors

OCC regulations allow a financial institution to convert to a national bank if it can operate safely and soundly as a national bank and in compliance with applicable laws, regulations, and policies (*see* 12 C.F.R. § 5.24(d)). OCC regulations further provide that a conversion application may be denied if a significant supervisory or compliance concern exists; if approval is inconsistent with law, regulation, or OCC policy; if the applicant fails to provide requested information; or if the conversion would permit the applicant to escape supervisory action by its current regulator (*see* 12 C.F.R. §§ 5.13 & 5.24(d)). Additionally, the Community Reinvestment Act requires the OCC to take into account an applicant's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, when evaluating certain applications, including conversions.

A. Safety, Soundness, and Compliance

In evaluating an application to convert to a national bank, the OCC considers whether the applicant has demonstrated the ability to operate safely and soundly and in compliance with applicable laws, regulations, and policies. In evaluating these factors in connection with this application, the OCC considered the application, examination reports of the applicant prepared by the Federal Deposit Insurance Corporation ("FDIC") and State of Texas Savings and Loan Department, and a pre-conversion examination of the applicant conducted by OCC supervisory staff. The OCC also evaluated certain policies and procedures that Citigroup intends to put in place following the conversion and Citigroup's acquisition of FAB. In addition, the OCC considered a submission received from a community organization concerning Citigroup's internal controls. (Collectively "application record.")

The application states that Citigroup will acquire the Bank immediately after FAB converts to a national bank. In this regard, Citigroup states that, with the exception of one individual, it plans to replace the Resulting Bank's board of directors and senior management team.

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Citigroup represents that it applies compliance policies and standards uniformly across the legal entities it controls. Thus, following consummation of the conversion and Citigroup's acquisition of the Resulting Bank, Citigroup states that the Bank will operate under Citigroup's compliance policies and procedures. Accordingly, in evaluating safety, soundness, and compliance, the OCC considered the record of both FAB and Citigroup and its bank subsidiaries.² Based on the application record and our knowledge of the supervisory record, the OCC concluded that the allegations raised by the community organization do not pose a significant supervisory or compliance concern relative to FAB following its conversion and acquisition by Citigroup. Overall, the OCC determined that the record supports a finding that the Bank will be operated safely and soundly and in compliance with applicable laws, regulations, and policies.

B. The 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 neighborhoods, when evaluating certain applications, including conversion applications.³ FAB's most recent CRA performance evaluation ("PE"), dated June 3, 2002, and prepared by the FDIC, assigned a "Satisfactory" rating. The PE did not disclose any substantive violations of fair lending laws or regulations. In addition, under the CRA plan proposed in the application, the Resulting Bank plans to open 5 branches over the next 18 months in low- or moderate-income areas.

The above referenced community organization raised additional concerns relating to certain alleged lending practices at Citigroup.⁴ These concerns were similar to those the community organization raised against Citigroup and its bank and non-bank subsidiaries last year in response to the application filed by Citibank USA, National Association, Sioux Falls, South

² The community organization alleged that there were deficiencies in Citigroup's overall internal controls, leading to poor compliance with laws and regulations as evidenced by recent events such as the decision by the Japanese Financial Services Agency ("Japan FSA") to suspend Citibank N.A.'s license in Japan to conduct private banking. Further, an ongoing investigation is being conducted by the Financial Services Authority of the United Kingdom and other European regulators regarding a questionable bond transaction that took place in August 2004. The OCC found no evident connection between the control issues implicated in those foreign banking situations, and Citigroup's operations and oversight of FAB.

³ See 12 U.S.C. § 2903; 12 C.F.R. § 25.29(a).

⁴ The only concern raised by the community organization with respect to FAB was that the bank provided funding to pawn shops and to a small business that appears to be both a grocery and check casher as evidenced by UCC filings recorded in the State of Texas. Citigroup indicated that it does not have a business policy that precludes the opening of accounts with convenience stores or pawnshops that also cash checks for customers. However, upon the completion of its acquisition of FAB, Citigroup represented that it will review the identified FAB client relationships for consistency with Citigroup internal business practices and account opening policies.

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Dakota, to purchase substantially all of the assets of Sears National Bank, National Association, Tempe, Arizona. See OCC's CRA Decision #117, November 2003, *Interpretations and Actions*.⁵ The OCC considered those previous comments and determined that approval was not inconsistent with the CRA. Like the prior comments, many of the concerns raised in connection with the current application dealt with Citigroup entities that are not parties to this transaction, are non-bank subsidiaries of Citigroup, or are institutions regulated by other federal agencies.⁶

The community organization also expressed concerns that Citigroup's prime lending entities, Citibank, N.A., and CitiMortgage, disproportionately deny and exclude Latinos and African Americans.⁷ The community organization cited denial disparity ratios in numerous Metropolitan Statistical Areas throughout the United States, using 2003 Home Mortgage Disclosure Act ("HMDA") data.⁸ Since the community organization looked solely at denial disparity ratios and did not consider the overall lending to minorities, Citigroup disputed this allegation and provided a HMDA data analysis to demonstrate otherwise.⁹ Citigroup's analysis demonstrated that its record of HMDA-reportable loans made to Latinos and African Americans at the national level, in its CRA assessment areas, and in Texas, met or exceeded market averages for lending by all lenders to Latinos and African Americans and that where Citigroup fell below market averages, it was only by a small amount.¹⁰ Additionally,

⁵ Among the issues previously raised and addressed, the comments alleged that Citigroup "steers" minority customers to its subprime-lending units. Among the issues previously raised and addressed, the commenter again alleged that Citigroup "steers" minority customers to its subprime-lending units. As mentioned in Citigroup's response to this allegation, Citigroup has adopted a number of initiatives to address concerns raised about its subprime lending, including development of a new Preferred Fixed Rate mortgage product that allows CitiFinancial customers to qualify for a "near-prime" rate loan.

⁶ The OCC has no regulatory or supervisory authority over many of the Citigroup entities mentioned by the community organization, such as CitiFinancial Credit Company or Citigroup Global Markets, Inc. (formerly Salomon Smith Barney), because none of those entities are national banks or subsidiaries of national banks. We note that in connection with the related BHC Act application, the community organization provided the Federal Reserve with identical comments as those submitted to the OCC.

⁷ In early 2003, CitiMortgage was transferred to Citibank (West), FSB and ceased to be a subsidiary of a national bank. As a result, Citibank, N.A. currently has a very low volume of mortgage loans.

⁸ Using 2002 HMDA data, the community organization raised similar concerns last year on the application filed by Citibank USA, National Association, Sioux Falls, South Dakota, to purchase substantially all of the assets of Sears National Bank, National Association, Tempe, Arizona. The OCC determined that approval of that application was not inconsistent with the CRA.

⁹ It is important to note that HMDA data alone are not adequate to provide a basis for concluding that a bank is engaged in lending discrimination or whether its level of lending is sufficient. HMDA data do not take into consideration borrower creditworthiness, housing prices, and other factors relevant in each of the individual markets, nor do they fully reflect the range of a bank's lending activities or efforts. Nevertheless, denial disparity ratios are of concern to the OCC and are evaluated in fair lending examinations.

¹⁰ The OCC reviewed the HMDA data analysis submitted by Citigroup and found the analysis to be reliable.

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Citigroup provided information about the second and third review programs that its prime lending units have in place to ensure that applicants are treated fairly and consistently and are evaluated based on appropriate objective factors. The OCC also notes that Citibank N.A.'s most recent CRA PE, dated June 9, 2003, assigned an "Outstanding" rating.

Overall, the OCC determined that approval of this application was not inconsistent with the Community Reinvestment Act.

C. Request for Public Hearing

The community organization also requested that the OCC conduct a public hearing. Although conversion applications are generally not subject to 12 C.F.R. § 5.11 pursuant to 12 C.F.R. § 5.24, the OCC carefully considered whether to hold a public hearing but determined not to conduct a hearing on this application.

The general standard the OCC applies to determine whether to hold a public hearing is contained in 12 C.F.R. § 5.11, which provides:

The OCC generally grants a hearing request only if the OCC determines that written submissions would be insufficient or that a hearing would otherwise benefit the decision making process. The OCC also may order a hearing if it concludes that a hearing would be in the public interest.

The community organization did not indicate why written submissions would be insufficient to make an adequate presentation of the issues or facts to the OCC. In addition, the OCC had no reason to believe that the proposed testimony would provide the OCC with relevant information on the pending application.

D. Community Development Investments

Citibank Texas, National Association may also retain two FAB community development investments under the investment authority of 12 U.S.C. § 24(Eleventh) (the "Statute") and 12 C.F.R. Part 24 (the "Regulation") concerning national bank investments in community and economic development entities, community development projects, and other public welfare investments:

- Brazos Valley Community Development Corporation (\$88,000)
- Access Capital Strategies Community Investment Fund, Inc. (\$10,025,000)

These FAB investments primarily benefit low- and moderate-income individuals, low- and moderate-income areas, or other areas targeted by a governmental entity for redevelopment, or

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the investments would receive consideration as “qualified investments” under 12 C.F.R. § 25.23. The aggregate amount of the investments under the Statute and the Regulation will total \$10,113,000, which is less than 5 percent of capital and surplus of the Bank following conversion, and the investments do not expose the Bank to unlimited liability. The investments, therefore, are consistent with the Statute and the Regulation.

E. Branches

We also have determined that pursuant to 12 U.S.C. § 36(c), Citibank Texas, National Association may retain, following conversion, its 106 branches located in Texas, including one mobile branch that FAB previously acquired from a national bank¹¹, and two approved, but unopened, branches. The authorization and approval for each of the approved but unopened branches that is not opened within 18 months from the date of this approval shall automatically terminate unless the OCC grants an extension of the time period

F. Fiduciary Powers

The OCC also approved your proposal to conduct fiduciary powers pursuant to 12 U.S.C. 92a. Accordingly, you may begin exercising fiduciary powers simultaneously with your conversion to a national bank. Also, the OCC has no objection to Jerry D. Shook serving as trust officer of Citibank Texas, National Association. The OCC must approve any trust management change the bank makes prior to converting.

The Resulting Bank’s board of directors should provide for the establishment and administration of the trust department (or fiduciary operation) either through the adoption of amendments to the bylaws, by appropriate resolutions, or both. After adoption, a copy of those provisions should be furnished to the trust officer(s) for guidance. You will note that 12 C.F.R. § 9.4 places responsibility on the board of directors for the proper exercise of the bank’s fiduciary powers. However, the board may decide whether it shall supervise the administration of all such powers directly or assign any function related to such powers to any director, officer, employee, or committee.

The board should also provide for:

- A proper delineation of duties for trust officer(s) and committee(s).
- The pledging of securities to secure trust funds on deposit in the bank as required by 12 C.F.R. § 9.10(b).

¹¹ The mobile branch will remain subject to the requirements that the OCC imposed when it approved Security Bank, N.A., Garland, Texas, to establish the mobile branch on January 15, 2002.

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- The designation of the officers or employees responsible for custody of the trust investments in conformity with 12 C.F.R. § 9.13(a).
- The deposit of securities with state authorities where required by local law, according to 12 C.F.R. § 9.14.

G. Operating Subsidiaries

The OCC also found it permissible for Citibank Texas, National Association to continue engaging in certain activities through the following wholly owned subsidiaries that the Bank plans to retain as operating subsidiaries:

FAB Financial, LP: Originates, purchases, sells, and services loans.

FAB Holdings GP, LLC (“FABH GP”), and FAB Holdings LP, LLC (“FABH LP”): the general and limited partners, respectively, of FAB Financial LP.

SB Plano: Holds title to an office building that houses a FAB branch in Plano, Texas that will be retained following the conversion.

SALSCO: A service company through which FAB contracts with a third party to provide for the sale of nondeposit investment and insurance products to Bank customers. Citibank Texas, National Association commits that any third party sales of securities and insurance on its premises will conform to the requirements set forth in the Interagency Statement on Nondeposit Investment Products and 12 C.F.R. § 14.

Citigroup has represented that after the conversion; it will ensure that these subsidiaries will conduct their activities in accordance with OCC policies.

H. Other Equity Investments

The OCC also approved Bank’s request to retain nominal equity interests in the following:

- (1) Federal National Mortgage Association (pursuant to 12 U.S.C. § 1718(d));
- (2) The Independent Bankersbank, a bankers’ bank (pursuant to 12 U.S.C. § 24(Seventh) and 12 C.F.R. § 5.20(k)(3)). FAB represents that following consummation of the conversion, its investment in the bankers’ bank will comply with limitations set forth in federal law;

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- (3) Federal Agricultural Mortgage Corporation (“Farmer Mac”) stock that enables FAB to access Farmer Mac programs. (*See* OCC Interpretive Letter No. 427, May 9, 1988, *reprinted in* [1988-1989 Transfer Binder] Fed. Banking L. Rep. (CCH) para. 85,651.); and
- (4) Crowley Bank Holding Company (“Crowley BHC”), parent of The Bank of Crowley, Dallas, Texas, acquired in satisfaction of a debt previously contracted. Citicorp has represented that Citibank Texas, National Association will comply with divestiture and other requirements set forth in section 12 C.F.R. § 1.7 concerning the Bank’s interest in Crowley BHC.

The Bank also holds stock in the Federal Home Loan Bank of Dallas (“FHLB”) in connection with its membership in the FHLB, outstanding advances from the FHLB, and potential future funding needs. If the Bank determines not to continue membership in the FHLB or that the holding of a portion of the stock is not needed to support potential future funding needs, the Bank should redeem the appropriate amount of stock under the FHLB’s normal procedures for redeeming stock.

I. Executive Officers, Directors, Organizers, and Director’s Residency Waivers

The OCC poses no objection to the following person(s) serving as executive officer(s), directors, and/or organizers as proposed in the application:

<u>Name</u>	<u>Title</u>
Maura Markus	Chair and Proposed Chief Executive Officer
Deborah G. Adelman	Director
William E. Brown	Director and Proposed Executive V.P. for Retail Banking
Paul D. Burner	Director and Proposed Chief Financial Officer
Max R. Hefner	Director and Proposed President
Jean-Marie Horovitz	Director and Proposed Chief Credit Officer
John W. Watkins	Director
Donald Bender	Director
Russell R. Greenfield	Director
Jerry W. Johnson	Director

You are reminded that the OCC must review and have no objection to any changes that occur to the proposed slate of directors or executive officers prior to converting to a national bank.

The Bank has requested a residency waiver under 12 U.S.C. § 72 for all of the proposed directors except for Max Hefner, who resides in Texas. The OCC grants the request to waive the

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residency requirements of 12 U.S.C. § 72 for those nine individuals to serve as members of the board of directors of the Bank. The waiver is granted based upon a review of all available information, including the filing and any subsequent correspondence and telephone conversations, and the Bank's representation that this waiver will not affect the board's responsibility to direct the Bank's operations in a safe, sound, and legal manner. The OCC reserves the right to withdraw or modify this waiver and, at its discretion, to request additional information at any time in the future

J. Pre-conversion Requirements

Prior to or as of the date of the conversion:

1. FAB directors must own qualifying shares in conformance with 12 U.S.C. § 72 and 12 C.F.R. § 7.2005.
2. FAB must purchase adequate fidelity bond coverage in accordance with 12 C.F.R. § 7.2013, which lists four factors the directors should consider to determine adequacy.
3. FAB's board of directors must adopt and have in place policies, practices, and procedures to ensure the safe and sound operation of the Bank. The board also must review those policies, practices, and procedures continually and ensure bank compliance with them. Attached are the minimum policies and procedures applicable to national banks.
4. FAB must notify the OCC if the facts described in the filing materially change at any time prior to consummation of the conversion.
5. FAB must apply to the Federal Reserve for membership.
6. FAB must ensure that all other required regulatory approvals have been obtained.

Upon completion of the above procedures, please submit to this office a letter certifying that you have completed all steps required to convert to a national banking association (see sample enclosed). Your letter should include the following documents as attachments if they have not already been submitted: Secretary's Certificate certifying shareholder approval of the proposed conversion (see sample enclosed); Articles of Association; Bylaws; Organization Certificate properly signed and executed; Oath(s) of directors; and list of directors.

When FAB has satisfactorily completed all of the above steps, and the requirements of the first condition of approval relating to the acquisition of FAB by Citigroup are satisfied, the OCC will issue a letter officially authorizing FAB to commence business as a national banking association. At that time, you will receive the charter certificate. If the conversion is not

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consummated within six months from the approval date, the approval shall automatically terminate unless the OCC grants an extension of the time period.

The OCC will send to you under separate cover an appropriate set of OCC handbooks, manuals, issuances, and selected other publications. This information does not include the *Comptroller's Licensing Manual*, which is available in electronic form on our website: <http://www.occ.treas.gov/corpapps/corpapplic.htm>.

The decisions noted above, and the activities and communications by OCC employees in connection with the filing, do not constitute a contract, express or implied, or any other obligation binding upon the OCC, the United States (U.S.), any agency or entity of the U.S., or any officer or employee of the U.S., and do not affect the ability of the OCC to exercise its supervisory, regulatory and examination authorities under applicable law and regulations. The foregoing may not be waived or modified by any employee or agent of the OCC or the U.S.

We have enclosed a letter requesting your feedback on how we handled your application. We would appreciate your response to improve our service. All correspondence regarding this application should reference the application control numbers. If you have any questions concerning this letter, please contact Senior Licensing Analyst Mark S. Ginsberg or the undersigned at (202) 874-5060.

Sincerely,

/s/ Richard T. Erb

Richard T. Erb
Licensing Manager

Enclosures: Attachment A – List of Authorized Branches
Minimum Policies and Procedures
Sample Letter Certifying Conversion Completion
Sample Secretary's Certificate of Authority for Conversion to National Bank
Survey Letter

cc: Matthew Lee, Esq.
Executive Director
Inner City Press/Community on the Move
& Fair Finance Watch