



Comptroller of the Currency
Administrator of National Banks

Northeastern District Office
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Licensing Division
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CRA Decision #130
January 2006

December 15, 2005

Michael J. Chewens
Senior Vice President, Chief Financial Officer
and Secretary
NBT Bancorp Inc.
52 South Broad Street
Norwich, New York 13815

Re: Application to merge City National Bank and Trust, Gloversville, New York, with and into
NBT Bank, National Association, Norwich, New York
Control No.: 2005-NE-02-0023

Charter No.: 1354

Dear Mr. Chewens:

On December 15, 2005 the Office of the Comptroller of the Currency (“OCC”) approved your proposal to merge City National Bank and Trust, Gloversville, New York, (“CNBT”), with and into NBT Bank, National Association, Norwich, New York, (“NBTNA”), under the title and charter number of the latter.

This approval was granted based on a thorough review of all information available, including commitments and representations made in the application, the merger agreement, and those of your representatives.

The OCC considered the potential anticompetitive effects of this proposal in light of the reduction in the number of depository and/or lending institutions in the relevant geographic market(s). The OCC also considered the report of the Department of Justice, (“DOJ”), which found the proposed transaction, would not have a significant adverse effect on competition subject to its letter of agreement with NBT Bancorp; Inc., (“NBT”), holding company of NBTNA.¹ In light of NBT’s agreement with the DOJ, consummation of this proposal will not have a significantly adverse effect on competition in the relevant geographic market(s).

The OCC reviewed the proposed transaction under the criteria of the Bank Merger Act, 12 U.S.C. § 1828(c), and applicable OCC regulations and policies. The OCC considered the financial and managerial resources of the banks, their future prospects, and the convenience and needs of the communities to be served. In addition, the Bank Merger Act requires the OCC to consider “. . . the effectiveness of any insured depository institution involved in the proposed merger transaction in combating money laundering activities, including in overseas branches,” 12 U.S.C. § 1828(c)(11). We considered these factors and found them consistent with approval under the statutory provisions.²

¹ In reaching this conclusion, the DOJ relied on commitments made by NBT in a letter of agreement dated December 1, 2005. NBT agrees that if it closes a branch located in Fulton County or Montgomery County, New York, it will sell or lease such branch; to the extent NBT has the legal authority to do so. For a period of three months prior to selecting a buyer or lessor for such branch, it will issue a notice on a weekly or bi-weekly basis in a relevant industry publication(s), or any other publication as may be approved by the DOJ. During this notice period, NBT will accept an offer from a commercial bank that is equivalent to, or better than, an offer from a non-bank bidder. In addition, NBT will not impose any conditions in deeds or lease agreements that would preclude the future use of any closed branch by a commercial bank. These commitments will remain in effect for a period of three years following the consummation of the subject transaction.

NBT also agrees that it will suspend the operation of any existing non-compete agreements with any current NBT or CNBT loan officer or branch manager located in either Fulton County or Montgomery County, New York, effective from the signing of the Letter of Agreement and for a period of 180 days following the consummation of the subject transaction. In addition, NBT agrees that it will not enter into any new non-compete agreements with any current NBT or CNBT loan officer or branch manager located in either Fulton County or Montgomery County effective from the signing of the Letter of Agreement and for a period of 180 days following the consummation of the subject transaction.

The DOJ agrees that it will advise the Board of Governors of the Federal Reserve System and the OCC, that if the commitments specified above are met, it believes that these transactions will not have a significantly adverse effect on competition. Pursuant to 12 U.S.C. § 1849(b), as amended, and 12 U.S.C. § 1828(c), DOJ will concur in authorizing the consummation of this transaction, subject to the preceding commitments, 15 days on or after the date of approval.

² The Federal Reserve Bank of Cleveland received comments from one community organization on a related application expressing concern that NBTNA plans to close or consolidate branches, but has not yet disclosed specific information on these closings. NBT Bancorp Inc. (“NBT”) has represented that the process of identifying branch closings is underway. NBT has stated it will adhere to its obligations under the Federal Deposit Insurance Act and the agencies’ Joint Policy Statement Regarding Branch Closings. See 12 U.S.C. § 1831r-1; 64 Fed. Reg. 34,844 (1999).

Additionally, NBTNA’s branch distribution system and record of branch openings and closings were reviewed as part of the OCC’s most recent Community Reinvestment Act (“CRA”) Performance Evaluation. The OCC concluded that service delivery systems were reasonably accessible to geographies and individuals of different income levels in the bank’s assessment areas. In addition, any branch closings resulting from this merger will be considered in the bank’s next CRA examination.

The Community Reinvestment Act (“CRA”) requires the OCC to take into account the applicants’ record of helping to meet the credit needs of the community, including low- and moderate-income (“LMI”) neighborhoods, when evaluating certain applications, including merger transactions that are subject to the Bank Merger Act, 12 U.S.C. § 2903 and 12 C.F.R. § 25.29. The OCC considers the CRA performance evaluation of each institution involved in the transaction. A review of the record of these applicants and other information available to the OCC as a result of its regulatory responsibilities revealed no evidence that the applicant’s record of helping to meet the credit needs of their communities, including LMI neighborhoods, is less than satisfactory.

NBTNA’s latest CRA Performance Evaluation (“PE”), dated July 6, 2004, and issued by the OCC, assigned an “Outstanding” rating. The PE noted NBTNA’s excellent responsiveness to the credit needs of its assessment areas and excellent distribution of loans among borrowers of different income levels. The PE also indicated NBTNA had an overall excellent level of qualified investments. The OCC found no evidence of illegal discrimination or other illegal credit practices.

CNBT’s latest CRA PE dated January 27, 2003, and issued by the OCC, assigned a “Satisfactory” rating. The PE disclosed that CNBT’s had a good level of lending and a good distribution of loans among borrowers of different income levels. No fair lending deficiencies were identified.

While the OCC did not receive any public comments on this application, the Federal Reserve Bank of Cleveland received comments from the same community organization, as noted in footnote number 2, on the holding company application related to the proposed bank merger. Using 2003 and 2004 Home Mortgage Disclosure Act (“HMDA”) data, the commenter expressed concern with CNBT’s low level of home purchase mortgage lending to minorities in the Albany Metropolitan Statistical Area (“MSA”).³ NBT responded that CNBT’s presence in the Albany MSA is limited to one branch located in Saratoga County, a county with very few African Americans (only 1.36% of the county’s population) and Hispanics (only 1.41% of the county’s population). NBT observed that given CNBT’s low application volume in this MSA, as well as the small minority population in this area, a statistical analysis of the data is not meaningful.

Based on 2004 HMDA data, the commenter also expressed concern with NBTNA’s overall denial rates for minorities when compared to the denial rate for whites. NBT responded that while its denial rates for African Americans and Hispanics were higher than the denial rate for whites, NBTNA’s denial rates compare favorably to those of all mortgage lenders operating in the areas in which NBTNA has an office. NBT pointed out that it has adopted a fair lending

³ 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 in indicating 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 and pricing disparities are of concern to the OCC and are evaluated in fair lending examinations.

policy and provides on-going training and education for all employees who are involved in lending operations or who have customer contact. NBTNA has also instituted a “second look” program for residential mortgage products that requires a manager to review applications slated for denial to ensure that they are properly evaluated. Additionally, NBT also noted that it conducted its own review of 2004 HMDA data earlier this year, and made staffing changes in the Albany MSA in order to improve the bank’s performance.

The commenter also expressed concern with NBTNA’s loans with rate spreads triggering the reporting of pricing information under HMDA.⁴ Specifically, the commenter questioned the pricing of first-lien, closed-end home equity loans and manufactured housing loans.⁵ NBT responded that these loans are priced based on factors such as credit terms and other cost and risk factors. The commenter did not suggest that rate spread loans were originated disproportionately to any particular group.

In sum, the OCC determined that the applicant’s record of performance under the CRA was consistent with approval.

The 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. The effective date must follow the applicable DOJ injunction period and any other regulatory approval.

The OCC will issue a letter certifying consummation of the transaction when we have received:

- 1) A Secretary’s Certificate for each institution, certifying that a majority of the board of directors approved the transaction, if not previously provided.
- 2) An executed merger agreement with Articles of Association for the resulting bank attached, if not previously provided.
- 3) A Secretary’s Certificate for each institution, certifying that the shareholder approvals have been obtained, if not previously provided.

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.

Please be advised that the OCC is also authorizing the resulting bank, should the combination 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 prior to consummating the merger, 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 C.F.R. §32.4(a) at the end of the quarter following consummation of the combination.

⁴ NBTNA had reported 164 such loans in 2004.

⁵ The commenter also expressed concerns with possible errors regarding specific loans. We note that the application comment process is a poor forum for resolving concerns with respect to specific loans reported by an institution under HMDA. In any event, NBT provided detailed information to the commenter on these loans.

This approval 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.

All correspondence regarding this application should reference the control number. If you have any questions, please contact Gabriel Butler, Licensing Analyst, at 212-790-4055.

Sincerely,

/s/ Beverly L. Evans

Beverly L. Evans
Director for District Licensing