



Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

**Corporate Decision #2008-03
August 2008**

July 14, 2008

Mr. James E. Hanson
Vice President
Wells Fargo Bank, N.A.
Sixth and Marquette – N9305-152
Minneapolis, MN 55479

Re: Application from Wells Fargo Bank, National Association, Sioux Falls, South Dakota to purchase and assume certain assets and liabilities of nine branches of Citibank, N.A., Las Vegas, Nevada
Application Control Number: 2008-ML-02-0004

Dear Mr. Hanson:

The Office of the Comptroller of the Currency (“OCC”) hereby approves the application submitted by Wells Fargo Bank, N.A., Sioux Falls, South Dakota (“WFB” or “Purchaser”) to purchase and assume the deposits and certain loans of nine branches of Citibank, N.A., Las Vegas, Nevada (“Citibank” or “Seller”), for the reasons and subject to the requirements set forth herein. This approval is granted after a thorough review of the application, other materials you have supplied, and other information available to the OCC, including commitments and representations made in the application and by the bank’s representatives during the application process.

The Transaction

WFB is a national bank with its main office in Sioux Falls, South Dakota and branches in various states including California and Nevada. Citibank is a national bank with its main office in Las Vegas, Nevada. WFB seeks approval under the Bank Merger Act, 12 U.S.C. § 1828(c) to acquire the deposits and certain loans related to the commercial and consumer banking business of nine Citibank branches located in Nevada and California. WFB will not acquire any branch premises of Citibank in this transaction. Citibank will close all nine branches after consummation of the transaction, and the commercial and consumer banking business of these nine branches will be consolidated into branches of WFB.¹

¹ On May 29, 2008, the OCC received notice from Citibank for the closing of the branches subject to the branch closing procedures. Citibank is providing notices to customers in accordance with the closure and consolidation procedures and requirements. See 12 U.S.C. § 1831r-1, 12 C.F.R. § 5.30(j), and the Joint Policy Statement on Branch Closing Notices and Policies.

Legal Authority

The proposed purchase and assumption transaction is legally authorized. National banks have long been authorized to purchase the assets and assume the liabilities of other depository institutions as an activity incidental to the business of banking under the authority of 12 U.S.C. § 24(Seventh).² Such purchase and assumption transactions are among the transactions requiring review under the Bank Merger Act, 12 U.S.C. § 1828(c)(2) (“Act”). It is clear that WFB’s purchase of the deposits and certain loans of the nine branches of Citibank is permissible under 12 U.S.C. §§ 24(Seventh) and 1828(c).³ Accordingly, WFB may purchase the deposits and certain loans of these nine branches of Citibank.

The Bank Merger Act and Community Reinvestment Act Reviews

The OCC reviewed the proposed purchase and assumption under the criteria of the Bank Merger Act, 12 U.S.C. § 1828(c), and applicable OCC regulations and policies. Among other matters, we found that the proposed purchase and assumption transaction would not have significant anticompetitive effects.

There are seven relevant markets for this transaction: Grass Valley, CA, Sacramento, CA, Carson City, NV, Elko, NV, Reno, NV, Winnemucca, NV, and Yerington, NV, as defined by the Federal Reserve. WFB tested each of the seven markets using Screen A of the Herfindahl-Hirschman Index (“HHI”) test. In four of the markets, Grass Valley, Sacramento, Carson City, and Reno, the proposed transaction passed Screen A of the HHI test. In all four of these markets the post merger HHI index met one or both of the measures that indicates the transaction has no significant anti-competitive effects (the post merger HHI either increased by less than 200 or did not exceed 1800 points or both). In two of the markets, Winnemucca and Yerington, the post HHI increased by more than 200 points and exceed the 1800 point threshold. However, both Winnemucca and Yerington markets have populations of less than 10,000 and therefore the OCC has concluded that these markets are economically insignificant from a competitive standpoint. Therefore, the OCC concludes that there are no significant anti-competitive effects in these two markets.

² See e.g., *City National Bank of Huron v. Fuller*, 52 F.2d 870, 872 (8th Cir. 1931); *In re Cleveland Savings Society*, 192 N.E. 2d 518, 523-24 (Ohio Com. Pl. 1961). See also 12 U.S.C. § 1828(c)(2) (purchase and assumption transactions included among transactions requiring review under the Bank Merger Act).

³ Although WFB and Citibank are headquartered in different states (South Dakota and Nevada, respectively), the purchase and assumption is not subject to the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, P.L. 103-328, 108 Stat. 2338 (September 29, 1994) (“the Riegle-Neal Act”). Since as noted above, the purchase and assumption is separately authorized under 12 U.S.C. § 24(Seventh) and the Bank Merger Act, it is not necessary to look to the Riegle-Neal Act for further authority. The Riegle-Neal Act is not intended to supplant existing sources of authority that do not involve the acquisition of interstate branches. OCC Corporate Decision No. 97-94 (October 22, 1997). Further, no issue of branch acquisition or retention is raised under the Riegle-Neal Act. 12 U.S.C. § 1831u(d)(1). WFB is not acquiring or retaining any branches of Citibank in this transaction.

The purchase and assumption in the Elko market will exceed the thresholds of the HHI Screen A test. In the Elko market, the post HHI index will increase by 226 points with a resulting post HHI index of 2,408. Currently in the Elko market there are nine competitors. WFB is the number two competitor in the market with a 21% market share and Citibank is the number eight competitor in the market with a 5% market share. Upon consummation of the purchase and assumption transaction, there will be eight remaining competitors in the Elko market and WFB will remain the number two competitor in the market with a 27% market share. The seven remaining competitors in Elko market include Great Basin Financial Corp with a 36% market share, Bank of America with a 14% market share, U.S. Bancorp with an 11% market share, and Zions Bancorp with a 6% market share. These factors should mitigate any competitive concerns in the Elko market. Therefore, the OCC concludes that this aspect of the purchase and assumption transaction will not have a significant anti-competitive effect on the Elko market.

On June 16, 2008, the Department of Justice concluded that there are no significant anticompetitive effects associated with this proposed purchase and assumption transaction.

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, and their effectiveness in combatting money laundering activities. We considered these factors and found them consistent with approval under the statutory provisions.

The OCC also reviewed the purchase and assumption transaction under the Community Reinvestment Act (“CRA”). The CRA requires the OCC to take into account the applicant’s record of helping to meet the credit needs of the community, including low- and moderate-income (“LMI”) neighborhoods, when evaluating certain applications, including transactions that are subject to the Bank Merger Act. 12 U.S.C. § 2903; 12 C.F.R. § 25.29. The OCC considers the CRA performance evaluation of each institution involved in the transaction. 12 C.F.R. § 5.33(e)(iv). 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 applicants’ record of helping to meet the credit needs of their communities, including LMI neighborhoods, is less than satisfactory.

Consummation Requirements

The OCC must be advised in writing in advance of the desired effective date for the purchase and assumption so that the OCC may issue the certification letter. The effective date must follow the applicable statutory injunction period and any other required regulatory approval. If the purchase and assumption 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.

Conclusion

This approval and the activities and communications by OCC employees relating to the filing do not constitute a contract, express or implied, or any other obligation binding upon the OCC, the United States, any agency or entity of the United States, or any officer or employee of the United

States, and do not affect the ability of the OCC to exercise its supervisory, regulatory and examination authorities under applicable laws and regulations. The foregoing may not be waived or modified by any employee or agent of the OCC or the United States.

All correspondence regarding this application should reference the application control number. If you have any questions, please contact me at (202) 874-5294 or by email at Stephen.Lybarger@occ.treas.gov.

Sincerely,

signed

Stephen A. Lybarger
Large Bank Licensing Lead Expert