



Comptroller of the Currency
Administrator of National Banks

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May 10, 2012

Conditional Approval #1034
June 2012

William L. Kuhn, IV, Esq.
Vice President and Senior Counsel
HSBC – North America
26525 North Riverwoods Boulevard
Mettawa, Illinois 60045

Re: Application to merge HSBC Bank Nevada, National Association, Las Vegas, Nevada into HSBC Finance Corporation, Mettawa, Illinois

Control Number: 2012 NE 12 0120
Charter Number: 22675

Dear Mr. Kuhn:

The Office of the Comptroller of Currency (“OCC”) hereby conditionally approves the above referenced application under 12 U.S.C. § 215a-3 and 12 C.F.R. § 5.33(g)(5).

Background

HSBC Bank Nevada, National Association, Las Vegas, Nevada (“HSBC Nevada” or “bank”) seeks approval to merge into HSBC Finance Corporation, Mettawa, Illinois (“HBIO”), its non-bank parent corporation incorporated under Delaware Law, pursuant to 12 U.S.C. § 215a-3.¹ As a result of the merger, HSBC Nevada’s corporate existence will terminate, and its charter will be surrendered to the OCC.

The merger shall take place after HSBC Nevada’s sale of certain assets to HSBC USA, National Association, McLean, Virginia (“HBUS”) and the sale of substantially all of its remaining assets to Capital One Bank, National Association, McLean, Virginia and Capital One Bank (USA), National Association, Glen Allen, Virginia (collectively “Capital One”), which was approved in accordance with 12 C.F.R. § 5.53(c)(1)(i) on April 16, 2012.

¹ 12 U.S.C. § 215a-3(a), as added by section 1206 of the Financial Regulatory Relief and Economic Efficiency Act of 2000 (Title XII of the American Homeownership and Economic Opportunity Act of 2000), Pub. L. No. 106-569, 114 Stat. 2944, 3034 (December 27, 2000). Section 1206 was adopted to facilitate the ability of banking organizations to affect corporate restructuring between national banks and their subsidiaries and affiliates in the most efficient way possible, while preserving regulatory oversight by requiring OCC approval. *See* S. Rep. No. 106-11, 106 Cong., 1st Sess. 8 (1999).

Discussion

Section 215a-3 authorizes a national bank to merge with a non-bank subsidiary or affiliate. The statute does not limit its scope to mergers in which the national bank is the surviving entity. OCC regulations expressly provide for mergers into a non-bank affiliate, provided the national bank is uninsured at the time of the merger. 12 C.F.R. § 5.33(g)(5).

After the sale of assets to HBUS and Capital One, HSBC Nevada will have one deposit of \$500,000, which permitted the bank to receive FDIC deposit insurance. HSBC Nevada intends to seek permission from the FDIC to return the deposit to its owner, HBIO, and to relinquish its FDIC insurance. HSBC Nevada represents that at the time of the merger with HBIO, it will no longer be an insured depository institution as defined by 12 U.S.C. § 1813(h). As such, the merger falls within the scope of 12 U.S.C. § 215a-3 and 12 C.F.R. § 5.33(g)(5).

The OCC's regulations implementing 12 U.S.C. § 215a-3 set out substantive and procedural requirements for the merger of an uninsured national bank with its nonbank affiliate when the nonbank affiliate is the resulting entity. *See* 12 C.F.R. § 5.33(g)(5). The regulation requires that the law of the state where the nonbank affiliate is organized allow the nonbank affiliate to engage in such mergers. The regulation also imposes the following additional requirements that: (1) the bank comply with the procedures of 12 U.S.C. § 214a as if it were merging into a state bank, (2) the nonbank affiliate follow the procedures for mergers of the law of its state of organization, and (3) shareholders of the national bank who dissent from the merger have the dissenters' rights set out in 12 U.S.C. § 214a. The regulation also provides that the OCC shall consider the purpose of the transaction, its impact on the safety and soundness of the bank, and any effect on the bank's customers. The OCC may deny a merger if it would have a negative effect in any such respect.

The proposed merger meets the requirements of 12 U.S.C. § 215a-3 and 12 C.F.R. § 5.33(g)(5). At the time of the merger, HSBC Nevada will not be an insured bank. HBIO is a nonbank affiliate, does not accept deposits, and has never been insured by the FDIC.

The proposed merger is also consistent with Delaware law. Section 253 of the Delaware General Corporation Law authorizes a Delaware corporation to merge with a subsidiary. The applicant represents that it will comply with Delaware law in all other respects to the extent applicable.

The bank has complied with the procedures of 12 U.S.C. § 214a, to the extent applicable. HSBC Nevada's board of directors and its sole shareholder have approved the merger. Because HSBC Nevada is wholly owned by HBIO, dissenters' rights is not an issue.

Finally, the OCC must consider the purpose of the transaction, its impact on the safety and soundness of the bank, and any effect on the bank's customers. The OCC reviewed the merger with respect to these factors and determined approval of the merger is warranted. At the time of the merger, HSBC Nevada will have already disposed of most of its assets, discontinued business, and surrendered its FDIC insurance. The merger serves to expedite the liquidation of

the bank in an orderly and efficient manner. The transaction is consistent with the realignment of HSBC Nevada's U.S. holding company, and the customers of HSBC Nevada will continue to be served by HBUS and Capital One.

Public Comment

The OCC received one letter from the public commenting on this application. The commenter objected to the merger based on the grounds that HSBC Nevada has not made any small farm loans to businesses or to farms with gross annual revenues of \$1 million or less. The commenter asserts that, because it does not make these loans, HSBC Nevada is in violation of the lending test of the Community Reinvestment Act ("CRA"). The commenter also asserts that HSBC Nevada's CRA public file was not current as of April 1, 2012, as required by 12 C.F.R. § 25.43. No further details regarding this assertion were provided in the letter.

HSBC Nevada was chartered in 1993 under the Competitive Equality Banking Act ("CEBA"). A CEBA bank is not a "bank" for purposes of the Bank Holding Company Act if it engages "only in credit card operations" and is restricted by statutory provisions from competing with retail banks by limiting its deposit taking and lending activities. Under CEBA, HSBC Nevada cannot make any loans that are outside of credit card operations, including commercial loans, farm loans, or community development loans. In addition, HSBC Nevada applied for, and received, a limited purpose designation under the CRA on February 1, 1996. A limited purpose bank is a bank that offers only a narrow product line to a regional or broader market and for which a designation of limited purpose bank is in effect. Because of the limited purpose designation, the Lending Test, as cited in the public comment, does not apply to HSBC Nevada. HSBC Nevada submitted, and the OCC approved in March 2007, a strategic plan, which specified measurable goals for helping to meet the credit needs of each assessment area covered by the plan. HSBC Nevada's most recent CRA public evaluation, dated March 29, 2010, was limited to a review of the bank's community development investments and services under the strategic plan. The bank received an overall "Outstanding" rating based on the goals in its strategic plan.

With regard to the status of the CRA public file, without more specific information, it is difficult to determine in what way the commenter believed the file was not current. Based on a review of the public file during the CRA examination, no discrepancies were noted, and the file was determined to be in compliance with 12 C.F.R. § 25.43. HSBC Nevada also represented in a letter to the commenter dated April 30, 2012, that the bank's CRA public file was current.

Condition

The approval of this 12 U.S.C. § 215a-3 merger is subject to the following condition:

1. HSBC Nevada shall surrender its FDIC insurance prior to its merger with HBIO.

This condition of approval is a “condition imposed in writing by a Federal banking agency in connection with any action on any application, notice, or other request” within the meaning of 12 U.S.C. § 1818. As such, the conditions are enforceable under 12 U.S.C. § 1818.

Conclusion

Accordingly, the OCC approves HSBC Nevada’s application to merge into HBIO. This approval is subject to the condition set out above. This conditional approval is also granted based on the information and representations made in the application. In particular, the approval is based on HSBC Nevada’s representation that the merger with HBIO will occur shortly after the transfer and sale of HSBC Nevada’s assets to HBUS and Capital One and the termination of HSBC Nevada’s status as an insured bank.

The OCC Northeastern District Licensing Office must be advised in writing ten (10) days in advance of the desired effective date for the merger so that the OCC may issue the necessary certification letter.

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

1. Written confirmation that HSBC Nevada is no longer FDIC insured.
2. HSBC Nevada’s charter certificate and certification that all OCC Reports of Examination, and any other OCC documents in the possession of the bank, have been returned to the OCC, or destroyed.
3. A copy of the final Certificate of Merger filed with the Delaware Secretary of State.

If the merger is not consummated within twelve (12) months from the approval date, the approval will automatically terminate unless the OCC grants an extension of the time period.

This conditional 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, 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 law and regulations. Our approval is based on the bank’s representations, submissions, and information available to the OCC as of this date. The OCC may modify, suspend or rescind this decision if a material

change in the information on which the OCC relied occurs prior to the date of the transaction to which this decision pertains. The foregoing may not be waived or modified by any employee or agent of the OCC or the United States.

If you have questions regarding this letter, please contact Licensing Analyst Wai-Fan Chang at (212) 790-4055. Please reference the application control number in any correspondence.

Sincerely,

Steven Maggio

Steven Maggio
Director for District Licensing