



Comptroller of the Currency
Administrator of National Banks

Washington, D.C.

**Corporate Decision #98-11
February 1998**

**DECISION OF THE OFFICE OF THE COMPTROLLER OF THE CURRENCY
ON THE APPLICATION TO MERGE
BOATMEN'S FIRST NATIONAL BANK OF AMARILLO, AMARILLO, TEXAS,
WITH AND INTO
NATIONSBANK OF TEXAS, NATIONAL ASSOCIATION, DALLAS, TEXAS**

February 3, 1998

I. INTRODUCTION

On December 12, 1997, NationsBank of Texas, National Association, Dallas, Texas ("NationsBank/Texas"), and its national bank affiliate, Boatmen's First National Bank of Amarillo, Amarillo, Texas, ("Boatmen's") applied to the Office of the Comptroller of the Currency ("OCC") for approval to merge Boatmen's with and into NationsBank/Texas, under NationsBank/Texas's charter and title, under 12 U.S.C. §§ 215a and 1828(c) (the "Amarillo Merger"). NationsBank/Texas has its main office in Dallas, Texas, and operates branches in Texas. Boatmen's has its main office in Amarillo, Texas, and operates branches in Texas.

Both banks are indirect subsidiaries of NationsBank Corporation ("NBC"), a multistate bank holding company headquartered in Charlotte, North Carolina.¹ After the merger is completed, the banking offices of Boatmen's would operate as branches of NationsBank/Texas.

¹ NationsBank/Texas is a direct wholly-owned subsidiary of NationsBank Texas Bancorporation ("Bancorporation"), which is in turn a direct subsidiary of NB Holdings Corporation ("NB Holdings"), which is in turn a direct wholly-owned subsidiary of NationsBank Corporation. Boatmen's is a direct wholly-owned subsidiary of Boatmen's Texas, Inc ("Boatmen's Texas"), which is in turn a direct wholly-owned subsidiary of NB Holdings.

II. LEGAL AUTHORITY FOR THE MERGER

Mergers of national banks or state banks into a national bank “located within the same State” are authorized under 12 U.S.C. § 215a. In the Amarillo Merger, both NationsBank/Texas and Boatmen’s are located in Texas. Thus, the banks are located in the same state, and the merger is authorized under section 215a.

Branch retention by the resulting national bank in a merger under section 215a is covered by the McFadden Act. See 12 U.S.C. § 36(b)(2). Retention of the branches of the merging (or “target”) bank and of the acquiring (or “lead”) bank in a merger are addressed in different paragraphs of section 36(b)(2). Under section 36(b)(2)(A), the resulting bank may retain the main offices or branches of the target banks if the resulting bank could establish them as new branches of the resulting bank under section 36(c). Under section 36(b)(2)(C), the resulting bank may retain the branches of the lead bank unless the state has expressly prohibited branch retention for identically situated offices in a merger in which a state bank is the resulting bank. With respect to the Amarillo Merger, Texas permits the resulting bank in a merger involving Texas state banks to retain and operate branches that were part of a bank participating in the merger. See Tex. Fin. Code § 32.301(c). In addition, Texas also permits its state banks to branch statewide within Texas. See Tex. Fin. Code § 32.203(a). Therefore, the resulting bank in this merger may retain the main office and branches of Boatmen’s in Texas under section 36(b)(2)(A), and it may retain the branches of NationsBank/Texas in Texas under section 36(b)(2)(C).

III. ADDITIONAL STATUTORY AND POLICY REVIEWS

A. The Bank Merger Act.

The Bank Merger Act, 12 U.S.C. § 1828(c), requires the OCC's approval for any merger between insured banks where the resulting institution will be a national bank. Under the Act, the OCC generally may not approve a merger which would substantially lessen competition. In addition, the Act also requires the OCC to take into consideration 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. For the reasons stated below, we find the Amarillo Merger application may be approved under section 1828(c).

1. Competitive analysis.

Since both banks are already owned by the same bank holding company, the merger will have no anticompetitive effects.

2. Financial and managerial resources.

The financial and managerial resources of both banks are presently satisfactory. NationsBank/Texas expects to achieve efficiencies by operating the offices of Boatmen's as branches rather than a separate corporate entity. The geographic diversification of its operations will also strengthen the combined bank. The addition of Boatmen's offices and operations to NationsBank/Texas will not significantly affect NationsBank/Texas's financial and managerial resources. The future prospects of the institutions, individually and combined, are favorable. Thus, we find the financial and managerial resources factor is consistent with approval of this merger.²

3. Convenience and needs.

The resulting bank will help to meet the convenience and needs of the communities to be served. NationsBank/Texas will continue to serve the same areas in Texas, and it will add areas presently served by Boatmen's offices in Texas. The proposed merger will result in an expansion and enhancement of banking services in the market served by Boatmen's because of the broader array of products and services offered by NationsBank/Texas and the geographic scope of NationsBank/Texas's branch and automated teller networks. Upon completion of the merger, customers of Boatmen's will have available to them a significantly greater number of branches at which to bank. There will be no reductions in products or services as a result of the merger. The combined bank will continue to offer a full line of banking products and services. The merger will permit the resulting bank to better serve its customers. The combined resources, including capital and reserves, will provide a more substantial capital cushion for unexpected losses as well as provide business customers of Boatmen's with a higher lending limit.

No branch closings are expected in connection with this merger. However, as part of its ongoing business plans, NationsBank/Texas continually evaluates its branch system, including branches acquired in transactions and, as a part of the normal course of business, may close redundant or unprofitable branches. Any such later closures will be made in accordance with applicable statutes and regulations, including notification of customers of the branches, and will consider the needs of the community affected.

Accordingly, we believe the impact of the Amarillo merger on the convenience and needs of the communities to be served is consistent with approval of the application.

² Another application has been filed with the OCC for approval to merge NationsBank/Texas with and into its affiliate, NationsBank, N.A., Charlotte, North Carolina, under 12 U.S.C. §§ 215a & 1828(c) (the "Texas Merger"). Comments have been filed objecting to the Texas Merger, and the OCC is continuing to review the Texas Merger application and the issues raised by the commenters. The OCC's action today approves only the Amarillo Merger. Some of the comments on the Texas Merger criticize the banks on matters related to the OCC's assessment of the managerial resources of the merging and resulting institutions. The OCC will consider those comments in connection with review of the Texas Merger.

B. The Community Reinvestment Act.

The Community Reinvestment Act ("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, including mergers. See 12 U.S.C. § 2903. See also 12 C.F.R. § 25.29. NationsBank/Texas received an "Outstanding" CRA rating at its most recent CRA examination. Boatmen's received a "Satisfactory" rating at its most recent CRA examination.

No comments relating to CRA performance were received by the OCC directed at this application.³ However, the OCC received a letter in September 1997 from an individual raising a CRA-related concern about NationsBank/Texas because it declined to make an investment that the writer thought would be a qualified investment under the OCC's CRA regulation and a permissible community development investment under 12 C.F.R. Part 24. OCC examiners obtained information on NationsBank/Texas's community development investments. The examiners found that, during the first three quarters of 1997, NationsBank/Texas made more than \$2.6 million in qualified investments in its assessment areas. This includes small business investment corporation investments and investments in community development financial institutions, microenterprise and other community loan funds, and community development corporations focused on affordable housing initiatives. In summary, our investigation and analysis of the issues raised did not find grounds that would serve as a basis for denial or conditioning the approval of the Merger Application.

The merger is not expected to have any adverse effect on the resulting bank's CRA performance. The resulting bank will continue to serve the same communities that the merging banks currently serve. NationsBank/Texas will continue its current CRA programs and policies in Texas. After the merger occurs, Boatmen's offices in Texas will remain open as branches of NationsBank/Texas. NationsBank/Texas will carry forward the same CRA programs and policies and assessment areas that it has today, and will add the areas served by the Boatmen's offices to them. As a general matter, the resulting bank will have the same commitment to helping meet the credit needs of all the communities it serves as NationsBank/Texas and Boatmen's have today as separate banks. We find that approval of the proposed Amarillo Merger is consistent with the Community Reinvestment Act.

³ The OCC received a request for an extension of the comment period on this application. The Texas Publishers Association ("TPA") sought to extend the comment period an additional sixty days in order to enable TPA to conduct an opinion survey of its members' combined readership on NationsBank/Texas's treatment of its African-American customers, vendors, and borrowers and to have the survey considered by the OCC. The OCC informed TPA that the OCC would welcome receiving the survey results and would take them into consideration, if to do so would not unnecessarily delay action on the current application. In addition, the OCC shall incorporate any comments into the OCC's evaluation of the next CRA covered application involving NationsBank/Texas. The OCC will also take the results into account in connection with our next CRA examination of that bank. To date, the OCC has not received any further communications from TPA.

IV. CONCLUSION AND APPROVAL

For the reasons set forth above, including the representations and commitments of the applicants, we find that Boatmen's is authorized to merge into and under the charter and title of NationsBank/Texas pursuant to 12 U.S.C. § 215a and §1828(c). In addition, we conclude that the merger meets the other statutory criteria for approval. Accordingly, the Amarillo Merger application is hereby approved.

_____/s/_____

Julie L. Williams
Chief Counsel

_____02-03-98_____

Date

Application Control Number: 97-ML-02-0049