



Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

Conditional Approval #476 August 2001

DECISION OF THE OFFICE OF THE COMPTROLLER OF THE CURRENCY ON THE APPLICATION TO MERGE EUROPEAN AMERICAN BANK, UNIONDALE, NEW YORK INTO AND UNDER THE CHARTER AND TITLE OF CITIBANK, NATIONAL ASSOCIATION, NEW YORK, NEW YORK

July 2, 2001

A. INTRODUCTION

Citibank, National Association, New York, New York ("Citibank"), applied to the Office of the Comptroller of the Currency ("OCC") for approval to merge with European American Bank, Uniondale, New York ("EAB") under Citibank's charter and title under 12 U.S.C. §§ 215a and 1828(c) (the "Merger"). This application was based upon an agreement entered into between the proponents on February 12, 2001.

Citibank is a national bank that has its main office in New York, New York, and whose 151 branches are located solely within the state of New York, predominantly in New York City, Westchester and Nassau Counties. EAB is a state bank with its main office in Uniondale, New York and whose 96 branches are located solely within New York City and Long Island. The majority of its branches are situated in Nassau and Suffolk Counties. Both parties to this application are members of the Bank Insurance Fund.

As of March 31, 2001, Citibank had approximately \$396 billion in assets, \$71 billion in domestic deposits, and \$213 billion in foreign deposits. On the same date, EAB had approximately \$15 billion in assets and \$11 billion in total deposits. Citibank is an indirect wholly owned subsidiary of Citigroup, Inc. ("Citigroup"), a multinational financial holding company. EAB is a wholly owned subsidiary of ABN AMRO Bank, N.V., a multinational financial holding company incorporated in the Netherlands.

Citibank and EAB have published notice of the application in general circulation newspapers serving the head office cities of those two banks. All written comments received have been carefully considered as part of the merger application (see discussion below).¹

The application, filed under the provisions of 12 U.S.C. §§ 215a and 1828(c), seeks to merge EAB under the charter of Citibank. Citibank will operate the former head office and branches of EAB as branches of Citibank under 12 U.S.C. § 36(b)(2)(A). As a result of the Merger, Citibank will also acquire and operate EAB's existing subsidiaries under the provisions of 12 C.F.R. 5.34.

B. The Bank Merger Act

The Bank Merger Act, 12 U.S.C. § 1828(c), requires the OCC's approval for a merger between insured banks where the resulting institution will be a national bank. Under the Act, the OCC generally may not approve a merger that 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 this Merger may be approved under section 1828(c), subject to the conditions described hereinafter.

1. Competitive Analysis

The OCC reviewed the impact of the proposed transaction on competition for the cluster of products and services offered by depository institutions in the areas surrounding the target EAB. There is only one relevant geographic market for this proposal where competition between Citibank and EAB is direct and immediate: Metropolitan New York-New Jersey.

The OCC applied its standard procedures for determining whether the competitive effects of the merger in the above market clearly has minimal or no significant adverse competitive effects and found that to be true.

The banking market consists of the New York counties of Bronx, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster and Westchester; the New Jersey counties of Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union, Warren and certain portions of Mercer; Fairfield County, Connecticut along with certain portions of New Haven and Litchfield Counties; and Pike County, Pennsylvania.

Within this market, 290 banks and thrifts compete for \$523 billion in deposits. Citibank and its affiliates, with 162 branches, rank second with a 10.8% market share. EAB, with 96 branches, ranks tenth with a 2.3% share. With a resulting market share of 13.1%, the Merger would not increase the second place ranking of Citibank and its affiliates.

¹ During the public comment period, the OCC received comments from sixteen individuals or community organizations.

In reviewing Citibank's merger application, the U.S. Department of Justice ("DOJ"), the Federal Deposit Insurance Corporation ("FDIC"), and the Board of Governors of the Federal Reserve System ("FRB") also considered the competitive impact of the proposed merger. The DOJ and FDIC concluded the merger would not produce a significant effect on competition or concentration of banking resources in the relevant geographic market. The FRB has reserved comment on this factor for its own Decision Order on a related application now pending with that agency.

The OCC finds that, while the proposed merger would eliminate a direct competitor from the Metropolitan New York-New Jersey market, the continuing presence of other banking alternatives would mitigate any adverse effects. Therefore, the OCC's criteria are satisfied for a merger that will not have a significantly adverse impact on competition within that banking market.

2. Financial and Managerial Resources

The financial and managerial resources of Citibank and EAB are presently satisfactory. The future prospects of the institutions, individually and combined, are favorable. We find the financial and managerial resources factor is consistent with approval of the merger.

Citibank is a wholly owned indirect subsidiary and the lead bank of Citigroup, a \$946 billion diversified financial holding company that operates on a global basis and is subject to oversight by numerous regulators. Citibank has assets of \$396 billion and total risk-based capital of \$37 billion. In the most recent examination, the OCC found the bank to be well-capitalized and well-managed.

EAB is a wholly owned subsidiary of ABN AMRO Bank, N.V., a multinational financial holding company incorporated in the Netherlands which also operates on a global basis and is subject to oversight by numerous regulators. EAB currently has assets of \$15 billion and \$1 billion in total risk based capital. In its most recent examination of EAB, the Federal Reserve Bank of New York found the bank to be well capitalized and well managed.

Among the public comments received was an assertion that Citibank has insufficient controls in place to prevent money laundering. The bank's compliance with anti-money laundering regulations is regularly reviewed and monitored as part of the OCC's routine, on-going supervisory processes. In addition, Citibank has various anti-money laundering internal control policies and mechanisms in place.

Based upon all the information in the record and our supervisory knowledge of the management of Citigroup in connection with the operation of Citibank and its affiliated national banks, we have concluded that Citibank's financial and managerial resources do not indicate that the financial condition of the bank resulting from the proposed merger would be less than satisfactory.

3. Convenience and Needs

The merger will not have an adverse impact on the convenience and needs of the communities to be served. Citibank will continue to serve the same areas that it and EAB now serve. There will not be a reduction of products or services as a result of the merger. While Citibank anticipates that some overlapping branches of the resulting institution will be closed as a result of the transaction, current Citibank and EAB customers, as customers of the resulting bank, will have a greater number of branches at which to bank.

EAB customers will also benefit from an enhanced array of products and services at the resulting bank, *e.g.*, insurance products and broker-dealer services, higher lending limits, internet based products and services, and international operations as well as the investment banking services of Citibank's affiliates. Accordingly, we believe the impact of the merger on the convenience and needs of the communities to be served is consistent with approval of the application.

Several commenters expressed concerns with the possibility that Citibank would close a number of EAB branches in the New York City Metropolitan Statistical Area ("MSA"). On May 15, 2001, Citibank reported its plans to close twenty-four EAB or Citibank branches that are in close proximity to other EAB or Citibank branches in its New York marketplace. These consolidations and closures constitute less than 10% of the total combined Citibank and EAB branch network, and only three closures are proposed in low- and moderate-income ("LMI") census tracts.² Citibank has represented that the fifteen stand-alone branches slated for closure are within approximately one mile of Citibank or EAB branches that will remain open. Nine EAB branches located in supermarkets have also been scheduled for closure due to lack of economic viability. Citibank states that almost all of EAB's in-store branches are within three miles of a full service EAB or Citibank branch that will remain open. Two EAB supermarket branches will continue to operate, because of their distance from full-service branches and their location in communities that lack banking services.

Additionally, Citibank has stated that it will follow its branch closing policy for any closure, consolidation, or relocation. This policy requires, among other things, consideration of the effect on customers and the approval of Citibank's CRA Director for any closure. Further, Citibank's CRA and Community Relations staff will conduct discussions with affected communities.³

One commenter also voiced concern that Citibank has a history of closing branches in LMI neighborhoods. Citibank's October 26, 1998, Community Reinvestment Act ("CRA") Performance Evaluation indicated that Citibank had not closed any branches in LMI areas during the two year evaluation period and noted that its delivery system was accessible to substantially all portions of its assessment areas in the New York marketplace. OCC

² One additional closure is planned in an area adjacent to a low-income census tract.

³ Federal law requires banks to give notice of proposed branch closings. The Federal Deposit Insurance Act requires insured depository institutions to provide notice to the appropriate federal regulatory agency at least ninety days prior to such closing. 12 U.S.C. § 1831r-1. Additionally, the OCC considers a bank's record of branch closings, including those in LMI areas, in conducting CRA examinations.

examiners found that Citibank had not closed any branches in the two years following the 1998 Performance Evaluation.

C. Community Reinvestment Act

The CRA requires the OCC to take into account each applicant bank's record of helping to meet the credit needs of its entire community, including LMI neighborhoods, when evaluating certain applications.⁴ The types of applications that are subject to review under the CRA include mergers between insured depository institutions.⁵ The OCC considers the CRA performance of each depository institution involved in the transaction. Under the CRA regulation, when evaluating a bank's performance, the OCC considers the institution's capacity and constraints, including the size and financial condition of the bank and its subsidiaries.

EAB's most recent CRA Performance Evaluation conducted by the Federal Reserve Bank of New York, dated March 2, 1998, reflected a "Satisfactory" rating. The Federal Reserve Bank evaluated EAB's performance using criteria relative to the bank's lending, investments, and services. That Performance Evaluation indicated that no credit practices were identified that violated the substantive provisions of anti-discrimination laws and regulations.

Citibank's most recent CRA Performance Evaluation, dated October 26, 1998, reflected a "Satisfactory" rating. The OCC evaluated Citibank's performance using criteria relative to the bank's lending, investments, and services. That Performance Evaluation indicates that a concurrent fair lending examination of Citicorp Mortgage, Inc.'s home purchase loans disclosed no violations of the substantive provisions of anti-discrimination laws or regulations.⁶ The analysis consisted of comparing denied black and Hispanic applicants to approved white applicants.

In considering Citibank's and EAB's CRA record of performance, the OCC took into account the affordable home loan products these entities offer. Citibank has offered proprietary affordable mortgage products, as well Fannie Mae and Freddie Mac products, that incorporate such features as low down payment requirements and flexible qualifying criteria. CitiMortgage, Inc. ("CitiMortgage"), a subsidiary of Citibank, and Fannie Mae recently announced a five-year, affordable mortgage lending partnership to expand the availability of flexible mortgage products. EAB has made affordable mortgages available through, among other products, the EAB Neighborhood Mortgage Program. This product features flexible loan qualifying guidelines, a low down payment, and discounted interest rates, fees and closing costs for LMI applicants and properties in LMI communities.⁷

⁴ 12 U.S.C. § 2903.

⁵ 12 C.F.R. 25.29(a)(3).

⁶ Citicorp Mortgage, Inc. was a subsidiary of Citibank at the time of the 1998 Performance Evaluation and now operates under the name CitiMortgage. For ease of reference, Citicorp Mortgage will be referred to as "CitiMortgage" in the remainder of this document.

⁷ Citibank plans to consolidate EAB's Neighborhood Mortgage Program within existing Citibank affordable mortgage and purchase assistance programs.

1. Comments Regarding Associates National Bank

A number of commenters expressed concern regarding the “Needs to Improve” CRA rating of Associates National Bank, an affiliate of Citibank. Citigroup acquired Associates National Bank in late 2000 as part of its acquisition of Associates First Capital Corporation. The federal statutes authorizing the merger of banks located in the same state do not provide for consideration of the CRA records of affiliates of the merging entities, nor does the CRA itself provide for such consideration. See 12 U.S.C. §§ 215, 215a, 1828(c), 2903; but see 12 U.S.C. § 1831u(b)(3)(B) (under Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, such a consideration is required for certain types of interstate bank mergers).

Therefore, the OCC has not considered Associates National Bank’s CRA rating or record of performance in connection with this merger. Of course, the CRA rating and record of performance of Associates National Bank would be considered in any future CRA-covered application directly involving that bank.

Prior to the OCC’s decision to pose no objection to Citigroup’s Notice of Change in Bank Control to acquire Associates National Bank, Citigroup pledged in the Notice to implement certain initiatives to improve the lending policies and procedures applicable to its consumer finance operations (“Consumer Finance Initiatives”). The Consumer Finance Initiatives included undertakings to:

- Test a “referral up” program in four states before introducing a nationwide program. Under the pilot program, a prime credit borrower that applies for a mortgage loan product at a CitiFinancial office can be “pre-qualified” for a prime loan and will be provided information on how to apply for such a loan through other Citigroup subsidiaries.
- Introduce new lending programs. One program will reward a borrower with timely payments by granting interest rate reductions. Another program will offer customers who achieve a prime credit status the option of refinancing into a conventional real estate secured loan.
- Offer the option of monthly premium, single premium, and no credit life insurance. CitiFinancial will also provide consumers a “user-friendly” means of canceling single premium credit life insurance and provide related disclosures.⁸
- Offer flexibility to a borrower to choose a product with or without a payment fee. CitiFinancial also will reduce from five to three years the term during which prepayment fees will be payable on its loans, unless a shorter period is required by state law.
- Prohibit balloon payments and negative amortization. CitiFinancial will continue to prohibit balloon payments and negative amortization in loans it originates and will extend this prohibition to loans from brokers. In addition, CitiFinancial will prohibit the refinancing of below-market rate loans by non-profits.

⁸ Citigroup has just announced that it will discontinue offering single premium credit life insurance. Under this revision to the Consumer Finance Initiatives, and following approvals by state insurance regulators, if any consumer chooses to purchase credit life insurance in connection with a loan, the consumer will make monthly premium payments that are not financed with the loan. In addition, Citigroup announced that it will begin to offer existing mortgage customers that had purchased single premium credit life insurance the opportunity to convert to monthly pay insurance.

- Test a limitation on broker fees. Under a pilot in two states, CitiFinancial will cap lender and broker fees at 3% and eliminate prepayment fees.
- Implement procedures to review home foreclosure. CitiFinancial will establish a unit specifically trained to review pending and potential foreclosure actions and to take other action as it deems appropriate such as modifying the loan terms, refunding points or credit life insurance payments, and deferring payments until the borrower is able to resume payments.
- Review and revise existing CitiFinancial compliance programs. This review will include fair lending and compliance and examination policies and procedures in order to identify improvements and enhancements. CitiFinancial will also introduce an independent mystery shopper program at all CitiFinancial offices and at all former Associates offices.
- Reporting to Credit Bureaus. CitiFinancial also stated it will provide information on customer's payment records to credit bureaus to enable subprime borrowers to benefit from improvement in their credit performance.

Citibank notified the OCC that it will provide information on the progress made under the Consumer Finance Initiatives in July, 2001, with a report on the implementation progress as of June 30, 2001. The OCC has already been provided with an interim report by Citibank. In approving this application, the OCC has specifically relied upon Citibank's representations with respect to reporting to the OCC on its implementation of the Consumer Finance Initiatives. Accordingly, it is a condition of this approval that Citibank will provide the OCC with progress reports on its implementation of these Consumer Finance Initiatives, beginning no later than July 31, 2001, and quarterly thereafter until the implementation is completed. It is a further condition of this approval that Citibank notify the OCC concerning significant modifications to the Consumer Finance Initiatives.

The OCC also has reviewed the comments received in connection with the Associates First Capital Corporation acquisition.⁹ The primary concerns raised by those commenters related to Citigroup's subprime lending practices, the targeting of subprime loans to minorities and LMI geographies, the alleged targeting of prime loans to higher income individuals and geographies, the size and volume of home improvement loans not tied to home equity in LMI and minority geographies, and an alleged lack of lending in New York City to LMI census tracts. To the extent those comments bear on Citibank's CRA performance, the OCC is taking them into account in a current CRA examination of Citibank.

2. Citibank's Home Mortgage Lending

Commenters also raised concerns with respect to Citibank's level of home mortgage lending to LMI households and communities and to minority borrowers. Additionally, commenters expressed concern regarding Citibank's home improvement lending. These comments are addressed below.

⁹ See OCC's Corporate Decision No. 2000-21, *Interpretations and Actions*, December 2000, Vol. 13, No. 12, Notice by Citigroup Inc. of its intent to acquire a controlling interest in Associates National Bank (Delaware), Newark, Delaware.

a. Home Mortgage Lending to LMI Borrowers and in LMI Areas

Two commenters expressed concern that Citibank needed to improve its level of lending to LMI borrowers and LMI areas in the New York City MSA.¹⁰ However, the OCC's review of this concern disclosed that Citibank has an adequate record of lending to LMI areas and borrowers. OCC examiners recently found that within the LMI census tracts in Citibank's New York assessment area, where 10 percent of the housing units are owner occupied, 8% of Citibank's home purchase loans, 55% of its home improvement loans, and 7% of its refinance loans were in those LMI census tracts.¹¹ In addition, 14% of Citibank home purchase loans, 32% of its home improvement loans, and 13% of its refinance loans were to LMI borrowers. In response to the comments received, Citigroup represented that in 2000, 22% of Citibank's HMDA-reportable loans were booked in LMI census tracts and 23% to LMI households.¹² With respect to home purchase loans, Citibank reported that in 2000, 19% of these loans were located in LMI census tracts and 24% went to LMI households.

b. Home Mortgage Lending to Minority Borrowers

Commenters asserted that 1999 Home Mortgage Disclosure Act ("HMDA") numbers indicated Citibank and/or CitiMortgage made more refinance loans (in 17 specified MSAs) or conventional home purchase loans (in 5 specified MSAs) to whites than to African Americans or Hispanics and, in some instances, cited denial disparity ratios for those same loans.¹³ It is important to note that HMDA data alone are inadequate 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 capacity, housing prices, and other factors relevant in each of the individual markets and do not illustrate the full range of

¹⁰ In connection with the current merger application, many of the commenters raised concerns with the level of lending to various LMI communities throughout the nation. While those areas may be within the assessment areas served by Citigroup bank or thrift subsidiaries that are affiliated with Citibank, Citibank's CRA assessment areas within the continental United States are confined to the New York City MSA and the Nassau-Suffolk MSA. See 12 C.F.R. 25.41 (discussing delineation of assessment areas). Accordingly, the OCC did not investigate or consider concerns raised with respect to lending to LMI borrowers and communities in assessment areas for banks other than Citibank. For example, concerns were raised by a commenter with respect to Citibank's record of lending in Rochester, New York. Inasmuch as Rochester is within the assessment area of Citibank (New York State), a state chartered bank, the OCC did not review the performance of Citibank (New York State) in that MSA.

¹¹ The examiners' review was based on HMDA data from October 1, 1998, to June 30, 2000, and included HMDA-reportable loans generated by Citibank, CitiMortgage, CitiFinancial, Citibank, FSB, and Citibank (New York State).

¹² Citigroup's HMDA analysis included HMDA data for Citibank, CitiMortgage, Source One Mortgage Corporation, Citibank, FSB, Citibank (New York State), and Citibank (Nevada), N.A.

¹³ One commenter expressed concerns with the accuracy of the 2000 HMDA Loan Application Register ("LAR"). OCC examiners recently reviewed the accuracy of Citibank's 1999 HMDA data reported on the HMDA LAR and found no significant data errors. Additionally, Citigroup has represented that its business units have procedures in place, such as quarterly management reviews and internal audits, to ensure the accuracy and completeness of HMDA data.

the bank's lending activities or efforts. Nevertheless, denial disparity ratios are of concern to the OCC and are routinely evaluated in fair lending examinations.

While the OCC was unable to verify the ratios provided by the commenters, the OCC confirmed that Citibank and CitiMortgage made more loans to whites than to specific minorities. However, the commenters in most instances did not fully analyze the data in the context of the percentage of minority populations in the various MSAs or the level of lending to minorities by other lenders in the same area.

The OCC found that in 11 of the 17 specified MSAs, Citibank and CitiMortgage's percentage of lending to minorities was not significantly less than the percentage of lending to minorities experienced by all lenders in the same MSA.¹⁴ In addition, in the MSAs where commenters expressed concerns with denial disparity ratios between whites and minorities, the OCC found that Citibank and CitiMortgage's denial ratio for the minority in question was actually less than the denial ratio of all lenders in that particular MSA.

Citibank has represented in its response to commenters that it has a second level review program in place for all declined applications to ensure fair access to its products. In some instances, a third level review must occur before an adverse action is taken.

c. Citibank's Home Improvement Loan Program

Two commenters expressed concern that Citibank was targeting small dollar amount home improvement loans to traditionally underserved areas. These commenters questioned the quality of this product and speculated that Citibank introduced these loans solely to improve the appearance of its HMDA data. Citibank responded that its initiation of the program in 1997 was a strategy designed to increase awareness among LMI and minority individuals and communities nationwide of its home loan products, especially home purchase loans. Citibank represents that the program has played a more modest role in 2000 and the first part of 2001, and that Citibank has substantially expanded its "traditional" home purchase lending to LMI borrowers.

OCC examiners investigated the concerns raised about this unsecured loan product and found that it typically involved an unsecured, small dollar amount loan (e.g., \$500), carried a low interest rate and no closing costs, and was offered in minority and LMI areas in the form of "live checks" or "preapproved" mail solicitations. We also found that Citibank engaged in targeted mail marketing of various other unsecured, small dollar loan products in minority and LMI areas that typically carried a higher loan amount (e.g., \$1,000, \$2,500 and \$5,000) and

¹⁴ The OCC's review of the 1999 HMDA data disclosed that Citibank and CitiMortgage's level of refinance lending to minorities was at least 80% of the level experienced by all lenders in 11 of the 17 markets. The following is a list of the MSAs in which CitiMortgage's percentage of lending to minorities was less than 80% of the percentage experienced by all lenders in that MSA: Buffalo (2.9% for CitiMortgage vs. 16.1% for all lenders); Milwaukee (0.0% vs. 8.7%, but only 14 total loans originated); Memphis (12.2% vs. 21.2%); Salt Lake City (4.8% vs. 6.1%); St. Louis (7.5% vs. 9.8%); and Phoenix (7.0% vs. 11.8). With respect to conventional home purchase loans, Citibank's level of lending to minorities was at least 80% of the level experienced by all lenders in all 5 MSAs where the commenters expressed concerns.

higher rate of interest. In addition, we found that Citibank's reporting of this product as for home improvement purposes to be in compliance with HMDA reporting requirements.

As noted above, comments related to this loan product, and its responsiveness to the credit needs of Citibank's CRA assessment areas, also are being taken into account in a current CRA examination of Citibank.

We are aware that the New York State Banking Department ("NYSBD") expressed concerns to Citigroup about this loan product and whether it should be used to fulfill Citigroup's undertakings under the terms of a July 22, 1998, letter agreement between Citigroup and the NYSBD, entered into in connection with the Citigroup/Travelers application in 1998. At issue appears to be primarily the manner in which the size of these loans was disclosed to NYSBD. In order to be responsive to these and other community lending concerns, Citigroup has entered into an agreement with NYSBD, announced on June 26, 2001, to commit to certain new projections regarding its HMDA-reportable lending in 2001, 2002, and 2003, and to specify the size of the home improvement loans that will count toward meeting these projections ("agreement"). The agreement also calls for the creation of new Loan Production Offices ("LPOs") in predominately minority areas in New York City, under a three-year pilot program. Based upon our review of information from the NYSBD and Citigroup, the essence of the issues raised in this matter does not affect the criteria for our consideration of the present application, as discussed in this Decision.

3. Subprime Lending and Allegations of Predatory Lending

A number of commenters raised issues concerning the subprime lending activities of various Citigroup subsidiaries. Most of these concerns related to entities over which the OCC has no regulatory jurisdiction, such as CitiFinancial Credit Company and the non-bank subsidiaries of Associates First Capital Corporation. Because the OCC does not have regulatory authority over these entities, we did not investigate concerns regarding their operations.

With respect to Citibank itself, subprime lending constitutes a small percentage of its mortgage business. Subprime mortgage loans are made through Source One Mortgage Company, a subsidiary of CitiMortgage. OCC examiners found that the volume of subprime loans generated through Source One as of October 31, 2000, represented less than 1% of CitiMortgage's entire portfolio.

Additionally, as Citigroup has reported to the FRB in connection with the holding company application to acquire EAB, CitiMortgage has a "referral-up" program in place. Under this program, applicants who apply through the subprime channel are automatically considered for prime credit when certain underwriting criteria are present. Other applicants may be eligible for consideration for prime credit, depending on their credit scores and the ratio of the loan amount to the value of the collateral. Further, CitiMortgage's subprime lending channel (referred to as "CitiMortgage (Extended Lending Channel)" ("ELC")) has implemented other safeguards to protect borrowers, such as limitations on prepayment penalties, refinancing protections, a policy against originating or purchasing loans with balloon payments or negative amortization, and a special toll free number for consumer complaints.

Citigroup also represented that corporate policies and standards for compliance with fair lending laws cover the ELC. The ELC's underwriting policies and procedures have been reviewed internally to ensure compliance with fair lending laws. In addition, ELC employees are required to go through comprehensive fair lending training. The ELC is also subject to internal self-assessment, corporate audits, and mystery shoppers.

Several commenters noted that the Federal Trade Commission has brought a lawsuit against Citigroup and CitiFinancial Credit Company alleging that Associates First Capital Corporation and its subsidiaries "Associates" engaged in various unfair and deceptive practices. For example, the complaint, filed March 6, 2001, includes allegations that Associates' advertisements and statements concerning the costs and benefits of certain loan and credit-related insurance products were deceptive in violation of section 5(a) of the Federal Trade Commission Act¹⁵ ("FTC Act"). Additionally, the complaint alleges that Associates engaged in unfair debt collection practices in violation of the FTC Act. Finally, the complaint also alleges violations of the Truth in Lending Act, Equal Credit Opportunity Act, and Fair Credit Reporting Act. The defendants have filed a motion to dismiss the complaint.¹⁶

Some commenters requested that a decision on Citibank's application be delayed until the lawsuit is resolved. However, the acts at issue in the lawsuit were alleged to have been committed by companies that are now affiliates of Citibank, and not by Citibank, and, further, they are alleged to have occurred prior to Citigroup's acquisition of Associates First Capital Corporation. Therefore, we do not believe that this matter warrants a delay in our decision.

4. EAB's Community Development Corporation

Commenters also expressed a concern with respect to the potential loss of EAB's Community Development Corporation ("EABCDC"). Citigroup stated that it intends to integrate EAB's community development staff and operations into Citigroup, but will honor EABCDC's existing commitments. Citigroup also represented that it is committed to supporting the community development initiatives of, and to continuing the relationships fostered by, EABCDC. Further, Citigroup expects that EABCDC's staff will continue to conduct substantially similar functions at Citigroup following the merger. However, new community development loans and investments generated will likely be booked as assets of Citigroup's various banking subsidiaries, not of EABCDC.

5. Conclusion Regarding Record of CRA Performance

Based on the banks' records of CRA performance, discussed above, we find that approval of the merger is consistent with the Community Reinvestment Act.

¹⁵ 15 U.S.C § 45(a)(1).

¹⁶ Motion of Citigroup Inc., CitiFinancial Credit Co., Associates First Capital Corp. & Associates Corp. of N. Am. to Dismiss Complaint, Federal Trade Comm'n v. Citigroup Inc., et al., No. 1:01-CV-0606 JTC (N.D. Ga.) (dated Apr. 16, 2001).

D. Disposition of Hearing Requests

All but one of the 16 commenters on this application requested the OCC to conduct a hearing.¹⁷ After careful consideration, the OCC has determined not to conduct a hearing on this merger application or to extend the comment period.

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 decisionmaking process. The OCC also may order a hearing if it concludes that a hearing would be in the public interest.

The parties requesting hearings believed the OCC should conduct public hearings primarily to collect testimony on Citigroup's subprime lending practices. None of the parties indicated 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 other reason to believe that the testimony would provide the OCC with relevant information on the pending application. Citigroup's subprime lending activities are primarily housed in CitiFinancial Credit Company and other holding company subsidiaries that are neither subsidiaries of the merging entity, Citibank, nor under the OCC's regulatory jurisdiction.

E. Retention of Subsidiaries

As part of the Merger application, Citibank proposes to retain and operate EAB's various subsidiaries which are engaged in activities represented as permissible for national banks. With the exception of two entities, the EAB subsidiaries engage in activities for which Citibank itself has previously established subsidiaries under the provisions of 12 C.F.R. 5.34 or 24.3. The remaining entities are engaged in permissible activities described within 12 C.F.R. 5.34(e)(5)(v). Accordingly, Citibank, as the bank resulting from this merger, is expected to meet the qualifications of 12 C.F.R. 5.34 and is thus permitted to retain the two EAB subsidiaries.

The applicants have represented that EAB holds no other equity interests or other assets that would be impermissible for a national bank.

F. CONCLUSION AND APPROVAL

For the reasons set forth above, including the representations of the applicants, we find that the proposed Merger between Citibank and EAB is authorized as a merger transaction under the

¹⁷ Two commenters also requested the OCC to extend the public comment period. The OCC is not granting an extension of the comment period, because the commenters did not demonstrate that additional time was necessary to develop factual information, and no extenuating circumstances were present. See 12 C.F.R. 5.10(b)(2)(ii), (iii).

provisions of 12 U.S.C. §§ 215a & 1828(c); Citibank, as the resulting bank after the Merger, is authorized to retain and operate the former head office and branches of EAB as branches, under 12 U.S.C. § 36(b)(2)(A); Citibank is authorized to retain EAB's various subsidiaries; Citibank and EAB are in satisfactory condition; and, the proposal is consistent with the Community Reinvestment Act. Accordingly, the Merger application is hereby approved, subject to the condition that Citibank provide the OCC with progress reports on implementation of the Consumer Finance Initiatives, beginning no later than July 31, 2001, and quarterly thereafter, until implementation of the initiatives is completed. Additionally, for the reasons set forth above, the requests for a public hearing and for an extension of the comment period are denied.

Signed

Julie L. Williams
First Senior Deputy Comptroller
and Chief Counsel

7-2-01

Date

Application Control Number: 2001-ML-02-0006