

OFFICE OF THRIFT SUPERVISION

Notice Requesting Exemption Under The Depository Institution Management Interlocks Act

Order No.: 2003-18
Date: May 15, 2003
Docket Nos.: 15846 and H-3352

The Office of Thrift Supervision (OTS) has reviewed a notice (Notice) requesting non-disapproval under the Depository Institution Management Interlocks Act (Act) and 12 C.F.R. Part 563f (Interlocks Regulations) on behalf of Enrique Hernandez (Individual), regarding the Individual's service as a member of the board of directors of Nordstrom, Inc., Seattle, Washington (S&LHC), while serving as a director of Wells Fargo & Company, San Francisco, California (BHC). Both the S&LHC's savings association subsidiary, Nordstrom fsb, Scottsdale, Arizona (Thrift), and certain of the BHC's banking subsidiaries, Wells Fargo Bank Arizona, National Association, Phoenix, Arizona, Wells Fargo Bank, National Association, San Francisco, California, and Wells Fargo Bank West, National Association, Denver, Colorado (collectively, Banks), have offices in the same community and the same relevant metropolitan statistical area (RMSA), and each depository organization has total assets of \$20 million or more. Absent non-disapproval, the interlock would be prohibited under the "Community" and "RMSA" prohibitions set forth in the Act and the Interlocks Regulations.¹

The Interlock

The Individual has served as a director of the S&LHC for many years and as of January 28, 2003, was appointed to serve as a director of the BHC. The Act and sections 563f.3(a) and (b) of the Interlocks Regulations generally prohibit a management official of a depository organization from serving as a management official of an unaffiliated depository organization simultaneously if the depository organization in question (or a depository institution affiliate thereof) has offices: 1) in the same community, or 2) in the same RMSA and each depository organization has total assets of \$20 million or more.² Both the Thrift and the Banks have offices in the same community and the same RMSA, and each depository organization has total assets of \$20 million or more.

Authority to Exempt the Proposed Interlock

Section 4(8) of the Act, 12 U.S.C. § 3204(8), and 12 C.F.R. § 563f.4(h)(1) provide an exemption from the interlocks prohibitions for the dual service of a director of a diversified savings and loan holding company also serving as a director of a non-affiliated depository organization. Before initiating such interlocking service, however, the statute and regulation

¹ 12 U.S.C. § 3202 and 12 C.F.R. § 563f.3(a) and (b) (2003).

² Id.

require that both the diversified savings and loan holding company and the non-affiliated organization provide 60-day prior notice of the proposed interlock to the appropriate federal banking agency. The interlocking service may commence 60 days after filing a complete notice unless one of the supervisory agencies disapproves.

An appropriate federal banking agency may disapprove a notice of proposed interlocking service if the agency finds that the interlock cannot be structured so as to preclude a monopoly or substantial lessening of competition in financial services in any part of the United States, or the interlock would lead to substantial conflicts of interest, or unsafe or unsound practices. In addition, the statute and regulations specify that the OTS may disapprove an exemption request if the diversified holding company has neglected, failed, or refused to furnish all requested information.

Evaluation of the Notice

In analyzing the competitive effects of the proposed interlock, OTS must consider the product lines of the entities involved, their geographic locations and market areas to determine whether the firms are substantial competitors.

The Notice provides an adequate basis to conclude that the proposed interlock will not cause a substantial lessening of competition or a monopoly in the market for deposits. Although the Banks have a market share slightly exceeding 20% in both of the relevant markets, the Thrift's market share in each market is 0.01% or less. Accordingly, even if the institutions' market share of deposits were aggregated as a result of the interlock, there would be no significant increase in the Banks' market share. Also, with respect to the Thrift and the Banks, their product lines include credit cards and first mortgage loans. However, the Thrift's primary customer base is derived from the S&LHC's retail customers, while the BHC and the Banks are active participants in the nationwide market.

With respect to the S&LHC and the BHC, the Notice states that the S&LHC's primary business is retail sales, and that the BHC is a diversified financial services company. Accordingly, the S&LHC and the BHC are not direct competitors in any product market, and it is highly unlikely that the proposed dual service would have an anti-competitive effect on either the financial services industry or the retail industry.

Based on the foregoing, there is an adequate legal basis to conclude that the proposed interlock will not cause a substantial lessening of competition in any markets for any products offered by the BHC, the Banks, the S&LHC and the Thrift.

The S&LHC maintains a variety of banking relationships with the BHC or its banking subsidiaries, in the ordinary course of business. The Notice states that these relationships have been conducted at arm's length using prevailing market terms.

In order to ensure that these transactions do not result in conflicts of interest, the Individual has agreed to recuse himself from matters before the S&LHC's board of directors that relate to the BHC and its subsidiaries, and vice versa.

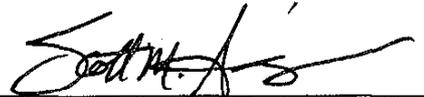
In connection with this Notice all information germane to determining whether the proposed interlocking service would result in a lessening of competition or substantial conflicts of interests has been furnished as requested by OTS. Accordingly, we are aware of no legal basis for disapproval of the Notice based on this criterion.

Conclusion

Based on the foregoing, OTS has concluded that non-disapproval of the Individual's service as a director to both the S&LHC and BHC is consistent with the applicable standards. Accordingly, OTS hereby states that it does not disapprove the Notice.

By order of the Director of the Office of Thrift Supervision, or his designee, effective

May 15, 2003.



Scott M. Albinson
Managing Director
Office of Supervision