

FEDERAL RESERVE SYSTEM

The Charles Schwab Corporation
San Francisco, California

Order Approving Acquisition of a Bank

The Charles Schwab Corporation (“Schwab”), a financial holding company within the meaning of the Bank Holding Company Act (“BHC Act”), has requested the Board’s approval under section 3 of the BHC Act (12 U.S.C. § 1842) to acquire all the voting shares of Charles Schwab Bank, National Association, Reno, Nevada (“Bank”), a *de novo* bank.¹

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (68 Federal Register 7792 (2003)). The time for filing comments has expired, and the Board has considered the proposal in light of the factors set forth in section 3 of the BHC Act.

Schwab, with total consolidated assets of \$40 billion, is the 28th largest commercial banking organization in the United States.² Schwab controls \$4.2 billion in deposits in depository institutions nationwide, representing less than 1 percent of the total deposits in insured depository

¹ Schwab has received the following regulatory approvals to establish Bank: (1) Office of the Comptroller of the Currency (“OCC”) (February 4, 2003) (preliminary); (2) Federal Deposit Insurance Corporation (“FDIC”) (February 10, 2003); and (3) State of Nevada Financial Institutions Division (March 13, 2003).

² Asset and nationwide ranking data for Schwab are as of December 31, 2002.

institutions in the United States.³ U.S. Trust Corporation, New York, New York ("U.S. Trust"), a wholly owned subsidiary of Schwab, operates depository institutions in California, Connecticut, Florida, New York, North Carolina, and Texas, as well as a nondepository trust company in Delaware.

Interstate Analysis

Section 3(d) of the BHC Act allows the Board to approve an application by a bank holding company to acquire control of a bank located in a state other than the home state of such bank holding company if certain conditions are met.⁴ For purposes of the BHC Act, the home state of Schwab is New York, and Schwab would acquire a bank in Nevada. All the conditions for an interstate acquisition enumerated in section 3(d) are met in this case.⁵ In light of all the facts of record, the Board is permitted to approve the proposal under section 3(d) of the BHC Act.

³ Deposit data are as of June 30, 2002. In this context, depository institutions include commercial banks, savings banks, and savings associations.

⁴ See 12 U.S.C. § 1842(d). A bank holding company's home state is the state in which the total deposits of all banking subsidiaries of such company were the largest on July 1, 1966, or the date on which the company became a bank holding company, whichever is later. 12 U.S.C. § 1841(o)(4)(C).

⁵ 12 U.S.C. §§ 1842(d)(1)(A) and (B) and 1842(d)(2)(A) and (B). Schwab meets the capital and managerial requirements established under applicable law. The formation and acquisition of Bank is not subject to a minimum age requirement under Nevada law. See Nev. Rev. Stat. 666.405. On consummation, Schwab would control less than 10 percent of the total amount of deposits of insured depository institutions in the United States. All other requirements of section 3(d) of the BHC Act would be met on consummation of the proposal.

Competitive Considerations

Section 3 of the BHC Act prohibits the Board from approving a proposal that would result in a monopoly or would be in furtherance of any attempt to monopolize the business of banking. The BHC Act also prohibits the Board from approving an acquisition that would substantially lessen competition in any relevant banking market, unless the Board finds that the anticompetitive effects are clearly outweighed in the public interest by the probable effect of the proposal in meeting the convenience and needs of the community to be served.⁶

The proposal involves the formation and acquisition of a *de novo* bank in the Reno, Nevada, banking market ("Reno banking market"), a market in which Schwab does not have banking operations, and thereby would increase the number of alternative sources of banking products and services available to customers in that market.⁷ The Board previously has noted that the establishment of a *de novo* bank enhances competition in the relevant banking market and is a positive consideration in an application under section 3 of the BHC Act. There is no evidence that the proposal would create or further a monopoly or lessen competition in any relevant market. Accordingly, the Board concludes that consummation of the proposal would not result in any significantly adverse effects on competition or on the concentration of banking resources in any relevant banking market, and that competitive considerations are consistent with approval.

⁶ 12 U.S.C. § 1842(c)(1).

⁷ The Reno banking market is defined as the Reno Ranally Metropolitan Area and the town of Fermley, all in Nevada.

Financial, Managerial, and Supervisory Considerations

Section 3 of the BHC Act requires the Board to consider the financial and managerial resources and future prospects of the companies and banks involved in a proposal and certain other supervisory factors. The Board has reviewed these factors in light of all the facts of record, including supervisory reports of examination, other confidential supervisory information assessing the financial and managerial resources of Schwab and the proposed management of Bank, and information provided by Schwab. The Board notes that Schwab and its subsidiary depository institutions currently are well capitalized and are expected to remain so after consummation of the proposal. Bank also would be well capitalized at consummation. Based on all the facts of record, the Board concludes that the financial and managerial resources and the future prospects of Schwab, Bank, and Schwab's other subsidiary insured depository institutions are consistent with approval, as are the other supervisory factors the Board must consider under section 3 of the BHC Act.⁸

Convenience and Needs Factor

In acting on a proposal under section 3 of the BHC Act, the Board is required to consider the effect of the proposal on the convenience and needs of the communities to be served and take into account the records of the relevant depository institutions under the Community Reinvestment Act (12 U.S.C. § 2901 *et seq.*) (“CRA”). The Board has carefully considered the convenience and needs factor and the CRA performance records of Schwab's

⁸ After consulting with the OCC and reviewing all the facts of record, the Board also has determined that, on consummation of the proposal, Bank would be well managed for purposes of section 4(*l*) of the BHC Act (12 U.S.C. § 1843(*l*)).

subsidiary insured depository institutions in light of all the facts of record, including public comments received on the proposal.

As provided in the CRA, the Board has evaluated the convenience and needs factor in light of examinations of the CRA performance records of Schwab's subsidiary insured depository institutions by the appropriate federal financial supervisory agencies.⁹ United States Trust Company of New York, New York, New York, the lead insured depository institution of Schwab, received an “outstanding” rating at its most recent CRA performance examination by the Federal Reserve Bank of New York, as of April 3, 2000. The other subsidiary insured depository institutions of Schwab and U.S. Trust received "outstanding" or "satisfactory" ratings at their most recent performance examinations.¹⁰

The Board received comments from two community organizations that opposed the proposal or requested that the Board's order impose certain

⁹ The Interagency Questions and Answers Regarding Community Reinvestment provides that an institution's most recent CRA performance evaluation is an important and often controlling factor in the consideration of an institution's CRA record because it represents a detailed evaluation of the institution's overall record of performance under the CRA by its appropriate federal supervisory agency. 66 Federal Register 36,620 and 36,639 (2001).

¹⁰ U.S. Trust Company, N.A., Los Angeles, California, received an “outstanding” rating from the OCC, as of October 15, 2002. In addition, the following institutions received "satisfactory" ratings from the federal financial supervisory agencies indicated, as of the dates listed: U.S. Trust Company, Greenwich, Connecticut (FDIC; February 8, 2001); U.S. Trust Company of Florida Savings Bank, Palm Beach, Florida (Office of Thrift Supervision; November 12, 1997); U.S. Trust Company of North Carolina, Greensboro, North Carolina (FDIC; July 22, 2002); and U.S. Trust Company of Texas, N.A., Dallas, Texas (OCC; June 25, 1997).

conditions on an approval. The commenters asserted that Bank's proposed CRA plan was inadequate and questioned whether Bank would adequately meet the needs of low- and moderate-income ("LMI") individuals and communities.¹¹ As previously noted, Bank is in formation and has not commenced operations. Schwab was required to submit a CRA plan in connection with its charter application to the OCC, Bank's appropriate federal financial supervisory agency, and the OCC took the CRA plan into account in granting preliminary charter approval for Bank.¹² The OCC will evaluate the adequacy and implementation of Bank's CRA plan in each CRA performance examination of Bank.

The CRA requires that, in considering an acquisition proposal, the Board carefully review the actual performance records of the relevant depository institutions in helping meet the credit needs of their communities.¹³ As noted above, Schwab has achieved and maintained strong CRA ratings at its

¹¹ One commenter expressed concern that Bank would not engage in small business lending. Although the Board has recognized that banks assist in meeting the banking needs of communities by making a variety of products and services available, the CRA does not require an institution to provide any specific types of products and services, such as small business loans, in its assessment area.

¹² Schwab has designated Bank's CRA assessment area as the Reno, Nevada, Metropolitan Statistical Area ("Reno MSA"), which consists of Washoe County, Nevada. One commenter questioned the appropriateness of this assessment area. In its decision granting preliminary charter approval, the OCC determined that Bank's designation of the Reno MSA as the assessment area was appropriate under the agency's CRA regulations. See Decision of the OCC on the Application to Charter Charles Schwab Bank, National Association, Reno, Nevada, dated February 4, 2003; see also 12 C.F.R. § 25.41(c)(2).

¹³ One commenter expressed concern that Bank's business focus would be on serving Schwab's existing customers and urged Bank to commit to specific

insured depository institution subsidiaries and, therefore, has demonstrated the capability and willingness to implement the CRA plan for Bank that has been reviewed by the OCC.

In assessing the convenience and needs factor in this case, the Board has carefully considered all the facts of record, including review of the CRA performance examinations of Schwab's insured depository institution subsidiaries, information provided by Schwab, and public comments on the proposal.¹⁴ In addition, the Board has consulted with the OCC, the primary federal financial supervisory agency of Bank. Based on all the facts of record, the Board concludes that considerations relating to the convenience and needs factor are consistent with approval of the proposal.¹⁵

goals or actions for providing products and services to LMI communities. In addition, a commenter urged Schwab to commit that Bank would seek "high satisfactory" ratings on the CRA lending, investment, and service tests by 2004, and an overall CRA rating of "outstanding" by 2006. Neither the CRA nor the federal banking agencies' regulations require depository institutions to make pledges concerning future performance under the CRA.

¹⁴ One commenter sought assurances that Schwab and its subsidiaries would not securitize "predatory" mortgage loans. Schwab stated that it does not originate, purchase, or securitize subprime mortgage loans for itself or other lenders. U.S. Trust, which offers mortgage loans to its high-net-worth private banking customers, has previously securitized one pool of mortgage loans, and it has no current plans to securitize additional mortgages. Schwab stated that Bank would adopt policies and procedures designed to ensure that no high-cost loans would be offered to customers of Bank, and that the mortgage loans originated by or on behalf of Bank would not contain fees or terms that could be characterized as predatory or abusive.

¹⁵ One commenter requested that the Board hold a public meeting or hearing on the proposal. Section 3(b) of the BHC Act does not require the Board to hold a public hearing on an application unless the appropriate supervisory authority for the bank to be acquired makes a timely written recommendation of denial of the application. The Board has not received such a recommendation from the

Conclusion

Based on the foregoing, and in light of all the facts of record, the Board has determined that the application should be, and hereby is, approved. The Board's approval is specifically conditioned on compliance by Schwab with all the commitments and representations made in connection with the application. For purposes of this action, the commitments and conditions relied on by the Board in reaching its decision are deemed to be conditions imposed in writing in connection with its findings and decision and, as such, may be enforced in proceedings under applicable law.

The transaction shall not be consummated before the fifteenth calendar day after the effective date of this order or later than three months after the effective date of this order, and Bank shall be open for business within six months after the effective date of this order, unless such

appropriate supervisory authority. Under its rules, the Board also may, in its discretion, hold a public meeting or hearing on an application to acquire a bank if a meeting or hearing is necessary or appropriate to clarify factual issues related to the application and to provide an opportunity for testimony. 12 C.F.R. 225.16(e). The Board has considered carefully the commenter's request in light of all the facts of record. In the Board's view, the public has had ample opportunity to submit its views, and, in fact, the commenter has submitted written comments that have been considered carefully by the Board in acting on the proposal. The commenter's request fails to demonstrate why its written comments do not present its evidence adequately and fails to identify disputed issues of fact that are material to the Board's decision and would be clarified by a public meeting or hearing. For these reasons, and based on all the facts of record, the Board has determined that a public meeting or hearing is not required or warranted in this case. Accordingly, the request for a public meeting or hearing on the proposal is denied.

periods are extended for good cause by the Board or by the Federal Reserve Bank of San Francisco, acting pursuant to delegated authority.

By order of the Board of Governors,¹⁶ effective April 7, 2003.

(signed)

Robert deV. Frierson
Deputy Secretary of the Board

¹⁶ Voting for this action: Chairman Greenspan, Vice Chairman Ferguson, and Governors Gramlich, Bies, Olson, and Bernanke. Absent and not voting: Governor Kohn.