

FEDERAL RESERVE SYSTEM

Canadian Imperial Bank of Commerce
Toronto, Canada

CIBC World Markets Inc.
Toronto, Canada

CIBC Delaware Holdings Inc.
New York, New York

Amicus Holdings Inc.
Falls Church, Virginia

Order Approving Acquisition of Shares of a Bank Holding Company

Canadian Imperial Bank of Commerce (“CIBC”), CIBC World Markets Inc. (“World Markets”), CIBC Delaware Holdings Inc. (“Delaware Holdings”), and Amicus Holdings Inc. (“Amicus Holdings”) (collectively, “Applicants”), all bank holding companies within the meaning of the Bank Holding Company Act (“BHC Act”), have requested the Board’s approval under section 3 of the BHC Act (12 U.S.C. § 1842(a)(3)) to acquire a majority of the voting shares of Juniper Financial Corp. (“Juniper”), also a bank holding company, and thereby acquire control of Juniper’s wholly owned subsidiary, Juniper Bank, both in Wilmington, Delaware.¹

¹ Applicants propose to acquire 95 percent of the Series C Preferred Stock of Juniper and up to 51 percent of Juniper’s total voting shares. Applicants have stated that the Juniper shares would be acquired either by Delaware Holdings or by Amicus Holdings. Amicus Holdings is a wholly owned subsidiary of Delaware Holdings. CIBC and World Markets own 17.6 percent and 82.4 percent, respectively, of the voting shares of Delaware Holdings. CIBC owns all the voting shares of World Markets.

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (66 Federal Register 34,933 (2001)). The time for filing comments has expired, and the Board has considered the proposal and all comments received in light of the factors set forth in section 3 of the BHC Act.

CIBC, with consolidated assets of \$183 billion, is the second largest banking organization headquartered in Canada.² Through Amicus Holdings, CIBC owns CIBC National Bank, Maitland, Florida (“CIBC National”), and Amicus FSB, Cicero, Illinois (“Amicus Bank”). CIBC National, with total assets of \$428 million, controls deposits of \$132 million, representing less than 1 percent of total deposits of insured depository institutions in Florida (“state deposits”).³ Amicus Bank, with total assets of \$185.6 million, controls deposits of \$44.5 million, representing less than 1 percent of state deposits in Illinois. CIBC also operates a state-licensed branch in Chicago, Illinois; agencies in New York, New York, and Los Angeles, California; and a representative office in Houston, Texas. In addition, CIBC engages in a broad range of permissible nonbanking activities in the United States.

Juniper became a bank holding company in May 2001.⁴ Juniper currently operates, and purchases certain receivables from, the Internet-based credit card division of Columbus Bank & Trust, Columbus, Georgia, and CIBC has

² Asset and ranking data for CIBC are as of April 30, 2001, and reflect exchange rates as of that date.

³ Asset and deposit data for CIBC National and Amicus Bank are as of March 31, 2001. State deposit data are as of June 30, 2000. In this context, depository institutions include commercial banks, savings banks, and savings associations.

⁴ See Juniper Financial Corp., 87 Federal Reserve Bulletin 466 (2001).

stated that Juniper Bank would use the proceeds from CIBC's proposed investment in Juniper to acquire the credit card division's assets and liabilities and for other purposes.

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. For purposes of the BHC Act, the home state of CIBC is Florida, and Juniper Bank is located in Delaware.⁵ All the conditions for an interstate acquisition enumerated in section 3(d) are met in this case.⁶ Based on a review of all the facts of record, the Board is permitted to approve the proposal under section 3(d) of the BHC Act.

Competitive Considerations

CIBC and Juniper do not compete directly in any banking market. Based on all the facts of record, the Board concludes that consummation of the

⁵ A bank holding company's home state is that state in which the total deposits of all banking subsidiaries of such company were the largest on the later of July 1, 1966, or on the date on which the company became a bank holding company. 12 U.S.C. § 1841(o)(4)(C). New York remains the home state of CIBC for purposes of the International Banking Act, 12 U.S.C. § 3101 et seq. ("IBA"), and Regulation K. For purposes of section 3(d) of the BHC Act, the Board considers a bank to be located in the states in which the bank operates a branch or is chartered or headquartered.

⁶ See 12 U.S.C. §§ 1842(d)(1)(A) & (B), 1842(d)(2)(A) & (B). CIBC is adequately capitalized and adequately managed, as defined by applicable law. In addition, on consummation of the proposal, CIBC would control less than 10 percent of the total amount of deposits of insured depository institutions in the United States. All other requirements under section 3(d) of the BHC Act are met in this case.

proposal would not have a significantly adverse effect on competition or on the concentration of banking resources in any relevant banking market.

Financial, Managerial, and Supervisory Considerations

The BHC Act requires the Board to consider the financial and managerial resources and future prospects of the companies and banks involved in acquisition proposals and to consider certain supervisory factors.⁷ In assessing the financial and managerial strength of CIBC and its subsidiaries, the Board has reviewed information provided by CIBC, confidential supervisory and examination information, and publicly reported and other financial information. In addition, the Board has consulted with relevant supervisory authorities in Canada. The capital ratios of CIBC exceed the minimum levels that would be required under the Basle Capital Accord and are considered equivalent to the capital ratios that would be required of a U.S. banking organization. Juniper is, and on consummation of the proposal would remain, well capitalized. In light of these and all the facts of record, the Board concludes that the financial and managerial resources and future prospects of Applicants and Juniper are consistent with approval.

Section 3 of the BHC Act also provides that the Board may not approve an application involving a foreign banking organization unless it is “subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank’s home country.”⁸ The home country

⁷ 12 U.S.C. § 1842(c)(2).

⁸ 12 U.S.C. § 1842(c)(3)(B). Under Regulation Y, the Board uses the standards enumerated in Regulation K to determine whether a foreign bank that has applied under section 3 of the BHC Act is subject to consolidated home country supervision. See 12 C.F.R. § 225.13(a)(4). Regulation K provides that a foreign bank will be considered to be subject to comprehensive supervision or regulation on a consolidated basis if the Board determines that the bank is supervised and

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supervisor of CIBC is Canada's Office of the Superintendent of Financial Institutions ("OSFI"), which is responsible for the prudential supervision and regulation of federally regulated Canadian financial institutions. In approving applications under the BHC Act and the IBA, the Board previously has determined that Canadian banks, including CIBC, are subject to comprehensive consolidated supervision by the OSFI.⁹ In this case, the Board finds that the OSFI continues to supervise CIBC in substantially the same manner as it supervised Canadian banks at the time of those previous determinations. Based on this finding and all the facts of record, the Board concludes that CIBC continues to be subject to comprehensive supervision on a consolidated basis by its home country supervisor.

In addition, section 3 of the BHC Act requires the Board to determine that a foreign banking organization has provided adequate assurances that it will make available to the Board such information on its operations and activities and those of its affiliates that the Board deems appropriate to determine and enforce compliance with the BHC Act.¹⁰ The Board has reviewed the restrictions on disclosure in relevant jurisdictions in which CIBC operates and has communicated with relevant government authorities concerning access to information. In addition, CIBC previously has committed to make available to the Board such information on the operations of CIBC and its affiliates that the Board deems

regulated in such a manner that its home country supervisor receives sufficient information on the worldwide operations of the bank, including its relationship to any affiliates, to assess the bank's overall financial condition and its compliance with law and regulations. See 12 C.F.R. 211.24(c)(1).

⁹ See Canadian Imperial Bank of Commerce, 85 Federal Reserve Bulletin 733 (1999); Royal Bank of Canada, 83 Federal Reserve Bulletin 442 (1997); National Bank of Canada, 82 Federal Reserve Bulletin 769 (1996); Bank of Montreal, 80 Federal Reserve Bulletin 925 (1994).

¹⁰ 12 U.S.C. § 1842(c)(3)(A).

necessary to determine and enforce compliance with the BHC Act, the IBA, and other applicable federal law. CIBC also previously has committed to cooperate with the Board to obtain any waivers or exemptions that may be necessary to enable CIBC to make such information available to the Board. In light of these commitments, the Board concludes that CIBC has provided adequate assurances of access to any appropriate information that the Board may request. Based on these and all the facts of record, the Board concludes that the supervisory factors it is required to consider are consistent with approval.

Convenience and Needs Considerations

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 community to be served and to take into account the records of the relevant depository institutions under the Community Reinvestment Act (“CRA”).¹¹ The Board has carefully considered the convenience and needs factor and the CRA performance records of CIBC’s U.S. subsidiary depository institutions in light of all the facts of record, including a submission the Board received from a commenter.¹²

Amicus Bank received a “satisfactory” rating from its primary federal supervisor, the Office of Thrift Supervision (“OTS”), at its most recent evaluation

¹¹ 12 U.S.C. § 2901 et seq.

¹² Commenter asserts that CIBC National and Amicus Bank lack adequate plans to help meet the CRA-related needs of their communities. The Board has reviewed the current CRA plans of CIBC National and Amicus Bank and has consulted with the Office of the Comptroller of the Currency (“OCC”) and OTS, respectively, about these institutions. In addition, in acting on Juniper’s application to become a bank holding company, the Board reviewed the CRA plan of Juniper Bank and consulted with the Federal Deposit Insurance Corporation (“FDIC”), which is the bank’s primary federal supervisor.

for CRA performance, as of August 1998 (“1998 Amicus Bank Evaluation”).¹³ In the 1998 Amicus Bank Evaluation, examiners identified no violations of the substantive provisions of the antidiscrimination laws. CIBC National commenced operations in October 1999 and has not yet been examined for CRA performance.

CRA Performance of CIBC National.

Lending. According to data provided by CIBC, from January 1 through August 13, 2001, CIBC National has purchased 268 home purchase loans, and 74.6 percent of these loans were to low- and moderate-income (“LMI”) individuals and 38.4 percent were in LMI census tracts. CIBC has represented that CIBC National offers a full range of affordable mortgage products through correspondent lenders, including programs that offer low and/or flexible downpayments.

CIBC has reported that CIBC National’s community development loans and loan commitments totaled more than \$10.5 million for the period from January 1, 2000, through July 31, 2001. These loans include a \$5 million line of credit to a community reinvestment corporation (“CRC”) for construction financing of an affordable housing development and two LMI multifamily housing loans totaling more than \$2.2 million that CIBC National purchased from a CRC.

Investment. CIBC has stated that CIBC National made qualified community development investments of more than \$3.4 million from January 1, 2000, through July 31, 2001. CIBC National’s purchase of securities

¹³ CIBC acquired control of Amicus Bank on April 14, 2000. See Canadian Imperial Bank of Commerce, 86 Federal Reserve Bulletin 424 (2000). At the time of the evaluation, Amicus Bank was operating as St. Anthony Bank, A Federal Savings Bank.

backed by mortgage loans to LMI areas or LMI borrowers accounted for almost \$2.2 million of this total.

Service. CIBC National currently operates through its main office and 122 banking pavilions in supermarkets.¹⁴ CIBC has indicated that 19.5 percent of these locations are in LMI census tracts, and that CIBC National has never closed a branch or a banking pavilion. CIBC has represented that CIBC National offers customers a selection of financial products, including free checking with no minimum balance and mutual funds with a \$100 minimum investment.

CIBC also has indicated that CIBC National employees serve on the boards of directors of several community development corporations and other nonprofit agencies, and that CIBC National has presented homebuying and financial literacy seminars to underserved populations.

¹⁴ Commenter contends that CIBC National and Amicus Bank have not properly delineated their CRA assessment areas. CIBC National and Amicus Bank operate primarily through the Internet and through supermarket-based banking pavilions that accept deposits at automated teller machines (“ATMs”). CRA regulations require that an institution’s assessment area include the geographies in which the institution’s main office, branches, and deposit-taking ATMs are located. See, e.g., 12 C.F.R. 25.41(c)(2) & 563e.41(c)(2). CIBC has represented that CIBC National and Amicus Bank comply with this requirement by including in their assessment area each area in which the respective institution establishes and operates a branch or a deposit-taking ATM. In connection with past CRA examinations, OTS has reviewed the adequacy of Amicus Bank’s assessment area. In addition, in acting on CIBC National’s charter application, the OCC considered the bank’s plans for meeting CRA-related community needs. The Board also notes that the OCC and the OTS, respectively, will review the adequacy of the assessment areas of CIBC National and Amicus Bank in connection with regular CRA examinations of the institutions.

CRA Performance of Amicus Bank.

Lending. The 1998 Amicus Bank Evaluation examined the CRA performance of the institution under the standards applicable to small savings associations.¹⁵ Examiners reported that the bank's loan-to-deposit ratio during the evaluation period averaged 85.2 percent, which approximated the 86.3 percent ratio for similarly sized institutions in the central United States during the same period.¹⁶ The bank originated \$35.6 million in mortgage loans from January 1, 1996, through June 30, 1998, a loan origination level that examiners considered to be extremely high for an institution of Amicus Bank's asset size.

Examiners characterized the institution's record of lending in low- and moderate-income ("LMI") geographies as acceptable, noting that, during the evaluation period, Amicus Bank originated 49 percent of its HMDA-reportable loans in moderate income census tracts, compared with the 16.8 percent of these originations in such tracts by all lenders in 1996.¹⁷ Examiners reported that the institution originated 56.1 percent of its HMDA-reportable loans during the evaluation period to LMI borrowers, compared with 31.9 percent for lenders in the aggregate in the institution's assessment area in 1996. Examiners also stated that Amicus Bank offered a number of flexible mortgage products to assist LMI borrowers, including loans with downpayments of 3 percent of the home purchase price, and loan terms that permitted the use of affordable housing grants to fund portions of downpayments.

¹⁵ 12 C.F.R. 563e.26.

¹⁶ The evaluation period was from November 1, 1995, through July 31, 1998.

¹⁷ HMDA-reportable loans refers to loans reportable under the Home Mortgage Disclosure Act, 12 U.S.C. § 2801 et seq. ("HMDA").

Data from CIBC indicate that Amicus Bank originated 202 home purchase loans from January 1, 2000, through August 13, 2001. Approximately 72.7 percent of these loans were made to LMI borrowers, and 51.5 percent were made in LMI census tracts. CIBC has stated that Amicus Bank continues to offer low-downpayment mortgage loans and also plans to introduce the same selection of affordable mortgage products currently offered by CIBC National. CIBC also has represented that from January 1 through August 13, 2001, Amicus Bank had originated two community development loans in 2001, totaling more than \$550,000 and had approved an additional \$4.1 million in such loans.

Investment. Before its acquisition by CIBC in 2000, Amicus Bank qualified as a small savings association for CRA evaluation purposes and, accordingly, was not evaluated under the investment test. CIBC has represented that Amicus Bank has made a total of \$114,000 in donations to community development organizations during the first seven months of 2001, and that the bank also is considering making equity investments in certain community development organizations.

Service. Amicus Bank currently operates through its main office, two branches, and 64 banking pavilions in supermarkets. CIBC has stated that 22.4 percent of these locations are in LMI census tracts, and that Amicus Bank has never closed a branch or a banking pavilion. CIBC also has represented that Amicus Bank employees serve on the boards of directors of several community organizations and have conducted seminars for individuals seeking employment.

Conclusion on Convenience and Needs Factor

The Board has considered carefully the entire record in its review of the convenience and needs factor under the BHC Act.¹⁸ Based on all the facts of record, including the relevant CRA performance evaluations, the public comment received, and information provided by CIBC, the Board concludes that considerations relating to convenience and needs, including the CRA performance records of the banks involved in the proposal, are consistent with approval.

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 Applicants with all the commitments made in connection with the application. The Board's approval also is specifically conditioned on CIBC's compliance with the commitments it previously made regarding access to information and on the Board's receiving access to information on the operations or activities of CIBC and any of its affiliates that the Board deems to be appropriate to determine and enforce CIBC's

¹⁸ Commenter contends that CIBC and Juniper would market credit cards to unsophisticated customers and asserts that such marketing would constitute predatory lending. CIBC has indicated that Juniper focuses its marketing efforts on potential credit-card customers who have high credit scores. There is no indication in the record that CIBC or Juniper have acted, or intend to act, in a predatory or abusive manner in extending credit. Amicus Bank, CIBC National, and Juniper Bank each has policies in place to comply with all applicable fair lending laws. In acting on charter and related applications, the OCC and the FDIC, respectively, considered the proposed policies of CIBC National and Juniper Bank for compliance with fair lending and other laws. In connection with regular compliance examinations, the primary federal regulators of Amicus Bank, CIBC National, and Juniper Bank will monitor the compliance of each institution with fair lending laws.

compliance with applicable federal statutes. If any restrictions on access to information on the operations or activities of CIBC and its affiliates subsequently interfere with the Board's ability to obtain information to determine and enforce compliance by CIBC or its affiliates with applicable federal statutes, the Board may require termination of any of CIBC's direct or indirect activities in the United States. All the commitments and conditions on which the Board relied in granting its approval, including the commitments and conditions specifically described above, are deemed to be conditions imposed in writing by the Board 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, unless the Board or the Federal Reserve Bank of New York, acting pursuant to delegated authority, extends such period for good cause.

By order of the Board of Governors,¹⁹ effective August 17, 2001.

(signed)

Robert deV. Frierson
Deputy Secretary of the Board

¹⁹ Voting for this action: Chairman Greenspan, Vice Chairman Ferguson, and Governors Kelley, Meyer, and Gramlich.