FEDERAL RESERVE SYSTEM

Bank of Montreal
Montreal, Canada

Order Approving the Merger of Bank Holding Companies

Bank of Montreal ("BMO") and its U.S. subsidiaries, Harris Financial Corp. ("HFC") and Harris Bankcorp, Inc. ("Harris"), both of Chicago, Illinois (collectively, "Applicants"), each financial 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 to acquire Edville Bankcorp, Inc. ("Edville") and its subsidiary bank, Villa Park Trust & Savings Bank ("Villa Park Bank"), both of Villa Park, Illinois.[1]

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (70 Federal Register 51,065 (2005)). The time for filing comments has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3 of the BHC Act.

BMO, with total consolidated assets of approximately $237.4 billion, is the fifth largest banking organization in Canada.[2] BMO is the 32nd largest depository organization in the United States, controlling deposits of $26 billion

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[1] 12 U.S.C. § 1842. Pursuant to the merger agreement, Harris will form Omaha Acquisition Corporation ("Omaha"), Wilmington, Delaware, a wholly owned subsidiary of Harris, to merge with and into Edville. Immediately after this merger, Omaha would merge with and into Harris (with Harris as the survivor), and Harris would directly acquire Villa Park Bank.

[2] Asset data are as of July 31, 2005, and Canadian ranking data are as of December 31, 2004. In this context, insured depository institutions include commercial banks, savings banks, and savings associations.

through its four U.S. depository institutions with branches in Arizona, California, Florida, Illinois, Indiana, and Washington.[3] In Illinois, BMO operates the third largest depository organization through two subsidiary depository institutions, Harris National Association ("Harris N.A."),[4] Chicago, and NLSB, Plainfield, both of Illinois.[5] BMO controls deposits of approximately $22.1 billion, which represent 8 percent of the total amount of deposits of insured depository institutions in the state ("state deposits").[6]

Edville, with total consolidated assets of approximately $286.6 million, operates one depository institution, Villa Park Bank, with branches only in Illinois.[7] Villa Park Bank is the 138th largest insured depository institution in Illinois, controlling deposits of approximately $240.5 million.

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[3] Deposit and U.S. and state ranking data are as of March 31, 2005.

[4] On May 27, 2005, Applicants reorganized and consolidated 26 of their 30 subsidiary banks, including their lead bank, Harris Trust and Savings Bank ("HTSB"), Chicago, into Harris N.A. BMO also operates a limited-charter national bank, Harris Central National Association, Roselle, Illinois, which provides cash-disbursement services only.

[5] BMO operates two other depository institutions, Harris Bank National Association, Scottsdale, Arizona, and Mercantile National Bank of Indiana, Hammond, Indiana.

[6] The operations of Harris N.A. and NLSB in Illinois were considered collectively to determine BMO's state rankings and percentage of deposits. Harris N.A. controls deposits of approximately $21.3 billion and NLSB controls deposits of $883 million.

[7] Asset data are as of September 30, 2005. Edville is currently engaged in a limited number of real estate management and investment activities that are not permissible for a bank holding company. Applicants have committed to conform these investments and activities to the requirements of the BHC Act, including by divestiture if necessary, within two years of consummating the proposal.

On consummation of the proposal, BMO would have consolidated assets of approximately $237.7 billion and would control deposits of $26.2 billion, which represent less than 1 percent of the total amount of deposits of insured depository institutions in the United States. BMO would continue to operate the third largest depository organization in Illinois, controlling deposits of approximately $22.3 billion, which represent 8 percent of state deposits.

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 an attempt to monopolize the business of banking in any relevant banking market. The BHC Act also prohibits the Board from approving a bank acquisition that would substantially lessen competition in any relevant banking market unless the anticompetitive effects of the proposal 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.[8]

Harris N.A. and Villa Park Bank compete directly in the Chicago banking market in Illinois.[9] The Board has carefully reviewed the competitive effects of the proposal in this banking market in light of all the facts of record, including the number of competitors that would remain in the market, the relative shares of total deposits in depository institutions in the market ("market deposits") controlled by Harris N.A. and Villa Park Bank,[10] the concentration level of

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[8] 12 U.S.C. § 1842(c)(1).

[9] The Chicago banking market is defined as Cook, Du Page, and Lake Counties, all in Illinois. NLSB does not compete in the Chicago banking market.

[10] Deposit and market share data are as of June 30, 2004, and are based on calculations in which the deposits of thrift institutions are included at

market deposits and the increase in this level as measured by the Herfindahl-Hirschman Index ("HHI") under the Department of Justice Merger Guidelines ("DOJ Guidelines"),[11] and other characteristics of the markets.

Consummation of the proposal would be consistent with Board precedent and within the thresholds in the DOJ Guidelines in the Chicago banking market. After consummation, the Chicago banking market would remain unconcentrated, as measured by the HHI. In this market, the increase in concentration would be small and numerous competitors would remain.[12]

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50 percent. The Board previously has indicated that thrift institutions have become, or have the potential to become, significant competitors of commercial banks. See, e.g., Midwest Financial Group, 75 Federal Reserve Bulletin 386 (1989); National City Corporation, 70 Federal Reserve Bulletin 743 (1984). Thus, the Board regularly has included thrift deposits in the market share calculation on a 50 percent weighted basis. See, e.g., First Hawaiian, Inc., 77 Federal Reserve Bulletin 52 (1991).

[11] Under the DOJ Guidelines, a market is considered unconcentrated if the post-merger HHI is under 1000, moderately concentrated if the post-merger HHI is between 1000 and 1800, and highly concentrated if the post-merger HHI exceeds 1800. The Department of Justice ("DOJ") has informed the Board that a bank merger or acquisition generally will not be challenged (in the absence of other factors indicating anticompetitive effects) unless the post-merger HHI is at least 1800 and the merger increases the HHI by more than 200 points. The DOJ has stated that the higher than normal HHI thresholds for screening bank mergers and acquisitions for anticompetitive effects implicitly recognize the competitive effects of limited-purpose and other nondepository financial entities.

[12] After the proposed acquisition, the HHI would increase 3 points to 756. BMO operates the third largest depository institution in the market, controlling deposits of $18.5 billion, which represent 10 percent of market deposits. Edville operates the 71st largest depository institution in the market, controlling deposits of approximately $241.5 million, which represent less than 1 percent of market deposits. After the proposed acquisition, BMO would continue to operate the third largest depository institution in the market, controlling deposits of approximately $18.7 billion, which represent approximately 10 percent of

The Department of Justice also has reviewed the anticipated competitive effects of the proposal and advised the Board that consummation of the proposal would not likely have a significant adverse effect on competition in any relevant banking market. In addition, the appropriate banking agencies have been afforded an opportunity to comment and have not objected to the proposal.

Based on all the facts of record, the Board concludes that consummation of the proposal would not have a significantly adverse effect on competition or on the concentration of resources in the Chicago banking market in which Harris N.A. and Villa Park Bank directly compete or in any other relevant banking market. Accordingly, based on all the facts of record, the Board has determined that competitive considerations are consistent with approval.

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 depository institutions involved in the proposal and certain other supervisory factors. The Board has considered these factors in light of all the facts of record, including confidential reports of examination, other supervisory information from the various U.S. banking supervisors of the organizations involved in the proposal, publicly reported and other financial information, information provided by the Applicants, and public comment on the proposal.[13] The Board also has consulted with the

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market deposits. One hundred and eighty-seven depository institutions would remain in the banking market.

[13] A commenter criticized HTSB's managerial resources based on its decision to have a lending relationship with an unaffiliated, nontraditional provider of financial services, a rent-to-own company. As a general matter, these types of businesses are licensed by the states where they operate and are subject to applicable state law. Applicants stated that HTSB's business relationship with this provider is limited to serving as an administrative agent and extending credit consistent with applicable legal requirements. Applicants also represented that

Canadian Office of the Superintendent of Financial Institutions ("OSFI"), which is responsible for the supervision and regulation of Canadian banks.

In evaluating financial factors in expansion proposals by banking organizations, the Board reviews the financial condition of the organizations involved on both a parent-only and consolidated basis, as well as the financial condition of the subsidiary banks and significant nonbanking operations. In this evaluation, the Board considers a variety of measures, including capital adequacy, asset quality, and earnings performance. In assessing financial factors, the Board consistently has considered capital adequacy to be especially important. The Board also evaluates the financial condition of the combined organization at consummation, including its capital position, asset quality, and earnings prospects, and the impact of the proposed funding of the transaction.

Based on its review of these factors, the Board finds that Applicants have sufficient financial resources to effect the proposal. Applicants will use existing resources to effect the proposal as a cash purchase. Applicants and their subsidiary depository institutions are well capitalized and would remain so on consummation of the proposal.

The Board also has considered the managerial resources of the organizations involved and the proposed combined organization. The Board has reviewed the examination records of Applicants, Edville, and their subsidiary depository institutions, including assessments of their management, risk-management systems, and operations. In addition, the Board has considered its supervisory experiences and those of the other relevant banking supervisory

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they do not play any role in the business decisions, leasing, or credit practices of the borrower. In addition, the loan document executed by the borrower to HTSB contains representations, warranties, and covenants that the borrower obtains and maintains all necessary licenses to conduct its operations and complies with state law.

agencies with the organizations and their records of compliance with applicable banking law. Applicants, Edville, and their subsidiary depository institutions are considered to be well managed. The Board also has considered Applicants' plans for implementing the proposal, including the proposed management after consummation.

Based on all the facts of record, the Board has concluded that considerations relating to the financial and managerial resources and future prospects of the organizations involved in the proposal are consistent with approval, as are the other supervisory factors under the BHC Act.

Section 3 of the BHC Act also provides that the Board may not approve an application involving a foreign bank unless the bank is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.[14] As noted, the home country supervisor of BMO is the OSFI.

In approving applications under the BHC Act and the International Banking Act ("IBA"),[15] the Board previously has determined that BMO was subject to home country supervision on a consolidated basis by the OSFI.[16]

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[14] 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 is subject to consolidated home country supervision. See 12 CFR 225.13(a)(4). Regulation K provides that a foreign bank will be considered subject to comprehensive supervision or regulation on a consolidated basis if the Board determines that the bank is supervised or regulated in such a manner that its home country supervisor receives sufficient information on the worldwide operations of the bank, including its relationship with any affiliates, to assess the bank's overall financial condition and its compliance with laws and regulations. See 12 CFR 211.24(c)(1).

[15] 12 U.S.C. § 3101 et seq.

[16] See, e.g., Bank of Montreal/Mercantile Bancorp, Inc., as noted in Federal Reserve Release, H.2. No. 51, p. 4 (December 14, 2004);

Based on this finding and all the facts of record, the Board has concluded that BMO 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 an applicant 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.[17] The Board has reviewed the restrictions on disclosure in the relevant jurisdictions in which BMO operates and has communicated with relevant government authorities concerning access to information. In addition, BMO previously has committed to make available to the Board such information on its operations and those of its affiliates that the Board deems necessary to determine and enforce compliance with the BHC Act, the IBA, and other applicable federal laws. BMO also previously has committed to cooperate with the Board to obtain any waivers or exemptions that may be necessary to enable BMO and its affiliates to make such information available to the Board. In light of these commitments, the Board concludes that BMO has provided adequate assurances of access to any appropriate information the Board may request. Based on these and all other facts of record, the Board has concluded that the supervisory factors it is required to consider are consistent with approval.

Bank of Montreal/New Lennox Holding Company, as noted in Federal Reserve Release, H.2. No. 19, p. 2 (May 4, 2004); Bank of Montreal/Lakeland Financial Corp., as noted in Federal Reserve Release, H.2. No. 2, p. 2 (January 10, 2004); Bank of Montreal, 80 Federal Reserve Bulletin 925 (1994).

[17] See 12 U.S.C. § 1842(c)(3)(A).

Convenience and Needs Considerations

In acting on a proposal under section 3 of the BHC Act, the Board also must consider the effects of the proposal on the convenience and needs of the communities to be served and take into account the records of the relevant insured depository institutions under the Community Reinvestment Act ("CRA").[18] The CRA requires the federal financial supervisory agencies to encourage insured depository institutions to help meet the credit needs of the local communities in which they operate, consistent with their safe and sound operation, and requires the appropriate federal financial supervisory agency to take into account a relevant depository institution's record of meeting the credit needs of its entire community, including low- and moderate-income ("LMI") neighborhoods, in evaluating bank expansionary proposals.[19]

The Board has considered carefully all the facts of record, including reports of examination of the CRA performance records of the subsidiary banks of Applicants and Edville, data reported by Applicants under the Home Mortgage Disclosure Act ("HMDA"),[20] other information provided by Applicants, confidential supervisory information, and public comment received on the proposal. A commenter alleged, based on 2004 HMDA data, that HTSB has engaged in discriminatory treatment of minority individuals in its home mortgage operations.

A. CRA Performance Evaluations

As provided in the CRA, the Board has evaluated the convenience and needs factor in light of the evaluations by the appropriate federal supervisors of the

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[18] 12 U.S.C. § 2901 et seq.

[19] 12 U.S.C. § 2903.

[20] 12 U.S.C. § 2801 et seq.

CRA performance records of the relevant insured depository institutions. An institution's most recent CRA performance evaluation is a particularly important consideration in the applications process because it represents a detailed, on-site evaluation of the institution's overall record of performance under the CRA by its appropriate federal supervisor.[21]

Applicants' newly reorganized lead bank, Harris N.A., has not yet been examined under the CRA by the Office of the Comptroller of the Currency ("OCC"). Before the consolidation and restructuring of Applicants' subsidiary banks in May 2005, HTSB was Applicants' lead bank, and it accounted for approximately 65 percent of the assets and 55 percent of the deposits of Harris, the direct parent of all Applicants' insured depository institutions. HTSB received an "outstanding" rating at its most recent CRA performance evaluation by the Federal Reserve Bank of Chicago, as of April 29, 2002. Each of the other 25 subsidiary banks that later formed Harris N.A. received a "satisfactory" rating at its most recent CRA performance evaluation. Applicants' four remaining banks each received a rating of "satisfactory" or better at its most recent CRA performance evaluation.

Villa Park Bank received a "satisfactory" rating at its most recent CRA performance evaluation by the Federal Reserve Bank of Chicago, as of September 17, 2001. Applicants have represented that they will institute their CRA polices, procedures, and programs at Villa Park Bank on consummation of the proposal.

B. HMDA and Fair Lending Record

The Board has carefully considered Applicants' lending record and HMDA data in light of public comment received on the proposal. The commenter

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[21] See Interagency Questions and Answers Regarding Community Reinvestment, 66 Federal Register 36,620 and 36,639 (2001).

alleged, based on 2004 HMDA data, that HTSB denied the home mortgage and refinance applications of African-American and Hispanic borrowers more frequently than those of nonminority applicants in the Chicago Metropolitan Statistical Area ("Chicago MSA"). The commenter also alleged that HTSB made higher-cost loans more frequently to African-American and Hispanic borrowers than to nonminority borrowers.[22] The Board reviewed HTSB's HMDA data for 2004 in the Chicago MSA, which included the bank's assessment area.

Although the HMDA data might reflect certain disparities in the rates of loan applications, originations, denials, or pricing among members of different racial or ethnic groups in certain local areas, they are insufficient by themselves to conclude whether or not HTSB is excluding any racial or ethnic group or imposing higher credit costs on those groups on a prohibited basis. The Board recognizes that HMDA data alone, even with the recent addition of pricing information, provide only limited information about the covered loans.[23] HMDA data, therefore, have limitations that make them an inadequate basis, absent other information, for concluding that an institution has engaged in illegal lending discrimination.

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[22] Beginning January 1, 2004, the HMDA data required to be reported by lenders were expanded to include pricing information for loans on which the annual percentage rate (APR) exceeds the yield for U.S. Treasury securities of comparable maturity by 3 percentage points for first-lien mortgages and by 5 percentage points for second-lien mortgages. 12 CFR 203.4.

[23] The data, for example, do not account for the possibility that an institution's outreach efforts may attract a larger proportion of marginally qualified applicants than other institutions attract and do not provide a basis for an independent assessment of whether an applicant who was denied credit was, in fact, creditworthy. In addition, credit history problems, excessive debt levels relative to income, and high loan amounts relative to the value of the real estate collateral (reasons most frequently cited for a credit denial or higher credit cost) are not available from HMDA data.

The Board is nevertheless concerned when HMDA data for an institution indicate disparities in lending and believes that all banks are obligated to ensure that their lending practices are based on criteria that ensure not only safe and sound lending but also equal access to credit by creditworthy applicants regardless of their race. Because of the limitations of HMDA data, the Board has considered these data carefully and taken into account other information, including examination reports that provide on-site evaluations of compliance by the subsidiary depository institutions of Applicants with fair lending laws. In the fair lending review conducted in conjunction with the 2002 CRA Evaluation, examiners noted no substantive violations of applicable fair lending laws by HTSB. In addition, the Board has consulted with the OCC, the primary federal supervisor of Harris N.A., HTSB's successor institution.

The record also indicates that Applicants have taken steps to ensure compliance with fair lending laws and other consumer protection laws. Applicants have centralized the compliance functions performed by their Corporate Compliance Department ("CCD") and CRA Office, which have responsibility for planning, administering, monitoring, and reviewing the organization's responsibilities under the fair lending and consumer protection laws on a corporate-wide basis. In addition, Applicants' Corporate Audit Department periodically conducts a separate fair lending audit to ensure compliance with Applicants' policies and procedures. The CCD and CRA Office have implemented uniform fair lending policies, procedures, and training programs at Applicants' subsidiary depository institutions. The CCD also conducts annual reviews of the banks for their fair lending and consumer protection compliance monitoring, which includes a fair lending comparative file review. Any notable exceptions or deviations discovered during a review are reported, investigated, and addressed at the appropriate managerial levels.

The CCD's last comparative file review covered 2004 HMDA-reportable refinance transactions and was completed in September 2005. Applicants represented that the exceptions identified in this review were investigated, that no fair lending issues were found, and that the results of this review were disseminated to senior management. Applicants intend to institute their centralized compliance structure and implement their fair lending policies and procedures at Villa Park Bank after the merger.

The Board also has considered the HMDA data in light of other information, including the Applicants' CRA lending programs and the overall performance records of the subsidiary banks of Applicants and Edville under the CRA. These established efforts demonstrate that the institutions are active in helping to meet the credit needs of their entire communities.

Conclusion on CRA Performance Records

The Board has carefully considered all the facts of record, including reports of examination of the CRA records of the institutions involved, information provided by Applicants, comments received on the proposal, and confidential supervisory information. The Board notes that the proposal would expand the availability and array of banking products and services to Edville's customers, including access to expanded branch and ATM networks. Based on a review of the entire record, and for the reasons discussed above, the Board concludes that considerations relating to the convenience and needs factor and the CRA performance records of the relevant depository institutions are consistent with approval.

Conclusion

Based on the foregoing and all the facts of record, the Board has determined that the application should be, and hereby is, approved.[24] In reaching its conclusion, the Board has considered all the facts of record in light of the factors that it is required to consider under the BHC Act and other applicable statutes.[25] The Board's approval is specifically conditioned on compliance by

[24] A commenter requested that the Board hold a public hearing or meeting on the proposal. Section 3 of the BHC Act does not require the Board to hold a public hearing on an application unless the appropriate supervisory authority for any of the banks to be acquired makes a timely written recommendation of denial of the application. The Board has not received such a recommendation from any 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 CFR 225.16(e). The Board has considered carefully the commenter's requests in light of all the facts of record. In the Board's view, the public has had ample opportunity to submit comments on the proposal and, in fact, the commenter has submitted written comments that the Board has considered carefully in acting on the proposal. The commenter's request fails to demonstrate why its written comments do not present its views adequately or why a meeting or hearing otherwise would be necessary or appropriate. For these reasons, and based on all the facts of record, the Board has determined that a public hearing or meeting is not required or warranted in this case. Accordingly, the request for a public hearing or meeting on the proposal is denied.

[25] The commenter also requested that the Board extend the comment period and delay action on the proposal. As previously noted, the Board has accumulated a significant record in this case, including reports of examination, confidential supervisory information, public reports and information, and public comment. In the Board's view, the commenter has had ample opportunity to submit its views and, in fact, has provided multiple written submissions that the Board has considered carefully in acting on the proposal. Moreover, the BHC Act and Regulation Y require the Board to act on proposals submitted under those provisions within certain time periods. Based on a review of all the facts of record, the Board has concluded that the record in this case is sufficient to

Applicants with the conditions imposed in this order and the commitments made to the Board in connection with the application. For purposes of this action, the conditions and commitments are deemed to be conditions imposed in writing by the Board in connection with its findings and decision herein and, as such, may be enforced in proceedings under applicable law.

The proposed transaction may 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 such period is extended for good cause by the Board or the Federal Reserve Bank of Chicago, acting pursuant to delegated authority.

By order of the Board of Governors,[26] effective November 10, 2005.

(signed)

Robert deV. Frierson
Deputy Secretary of the Board

warrant action at this time and that neither an extension of the comment period nor further delay in considering the proposal is necessary.

[26] Voting for this action: Chairman Greenspan, Vice Chairman Ferguson, and Governors Bies, Olson, and Kohn.