



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

November 14, 1996

John T. Byam, Esq.
Cleary, Gottlieb, Steen & Hamilton
1752 N Street, N.W.
Washington, D.C. 20036-2806

Dear Mr. Byam:

This is in response to the request by Wells Fargo HSBC Trade Bank, N.A., ("Trade Bank") for an exemption from section 23A of the Federal Reserve Act in order that Trade Bank may acquire assets from certain branches of The Hongkong and Shanghai Banking Corporation, Ltd. ("Hongkong Bank").^{1/}

In September 1995, the Board approved the applications by Wells Fargo & Company and HSBC Holdings plc ("HSBC") to jointly acquire Trade Bank, a commercial bank that specializes in international trade financing. In connection with the formation of Trade Bank, the Board granted an exemption from section 23A to Trade Bank in order that Trade Bank could purchase approximately [redacted] of loan receivables from the Los Angeles and San Francisco branches of Hongkong Bank. Trade Bank now has requested an exemption from section 23A in order to purchase approximately [redacted] in on- and off-balance sheet assets from the trade finance portfolios of the Portland, Seattle and Houston branches of Hongkong Bank ("Hongkong Branches"). At present, approximately [redacted] is outstanding in the form of loans, letters of credit, and loan commitments.

^{1/} 12 U.S.C. § 371c.

Section 23A limits the amount of "covered transactions," which include loans and purchases of assets, between a bank and any single affiliate to 10 percent of the bank's capital stock and surplus, and limits the aggregate of all covered transactions between a bank and all of its affiliates to 20 percent of the bank's capital stock and surplus. A purchase by Trade Bank of assets from the Hongkong Branches is covered by section 23A.^{2/} Because the capital of Trade Bank is approximately \$52 million, the asset purchase described above would substantially exceed Trade Bank's quantitative limitations.^{3/}

Section 23A specifically authorizes the Board, however, to exempt "at its discretion . . . transactions or relationships from the requirements of this section if it finds such exemptions to be in the public interest and consistent with the purposes of this section."^{4/} Accordingly, Trade Bank has applied to the Board for an exemption from the quantitative limitations of section 23A in order to complete the purchase of assets from the Hongkong Branches.

As noted above, the Board approved a similar transaction in connection with the formation of Trade Bank based on similar exemptions granted in other cases for one-time transfers that are part of a corporate reorganization and that are structured to ensure the quality of the transferred assets.^{5/} As in previous cases reviewed by the Board, the proposed transaction in this case is a by-product of a one-time corporate reorganization representing

^{2/} See Letter from William W. Wiles, Secretary of the Board, to Barry Swart, Esq. (March 19, 1984).

^{3/} The purchase and sale of assets between a bank and its affiliates must be done at the fair market value of the assets or on terms at least as favorable to the bank as a similar transaction with a third party. Trade Bank proposes to pay Hongkong Bank the outstanding principal amount at the time of the transaction plus accrued interest and fees. HSBC asserts that book value is the equivalent of fair market value in this case because of the short-term nature and other characteristics of the assets.

^{4/} 12 U.S.C. § 371c(e)(2) (emphasis added).

^{5/} See Letter from James McAfee, Associate Secretary of the Board, to Timothy C. Roach, Esq. (dated April 19, 1988); and Letter from William W. Wiles, Secretary of the Board, to Timothy McGinnis (dated August 6, 1987).

the transfer to a successor organization of the international trade financing activities of the Hongkong Branches.^{6/} This reorganization is intended to permit Trade Bank and HSBC to provide enhanced services to small and medium-sized businesses engaged in the export and import business and is not for the purposes of avoiding the requirements of section 23A. Trade Bank has committed that it will not purchase any low-quality assets, as defined by section 23A, and that any loans purchased from HSBC that become classified as low-quality assets will be repurchased by HSBC at the original purchase price, adjusted to reflect any principal payments received.^{7/}

Because this transaction appears to be consistent with safe and sound banking practices and on terms that ensure the quality of the assets transferred, the transaction appears to be consistent with the purpose of section 23A. On this basis, the Board has granted the requested exemption. In addition, the Comptroller of the Currency, Trade Bank's primary regulator, concurs with the Board that the request raises no issues.

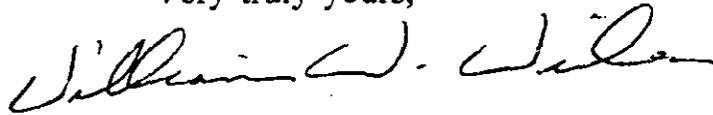
Based on the foregoing and other facts of record, therefore, the Board concludes that Trade Bank may consummate the proposed transfer of loan receivables consistent with section 23A. This determination is specifically conditioned on compliance by HSBC and Trade Bank with all the commitments and representations made by them. These commitments and representations are deemed to be conditions imposed in writing by the Board in connection with the granting of this request, and, as such, may be enforced in proceedings under applicable law. This determination is based on the specific circumstances surrounding this transaction, and in the event of any material change in those circumstances or any change in or failure by HSBC and Trade Bank to continue to observe any of their commitments or representations, this determination may

^{6/} As part of the reorganization, the Portland and Seattle branches will be transferred to Hongkong Bank of Canada and the Houston branch will convert to a representative office.

^{7/} Trade Bank also has committed that, prior to the purchase or transfer of assets, the majority of Trade Bank's board of directors who are not affiliated with HSBC will review and approve the purchase of the assets.

be revoked. This determination does not represent a determination concerning the permissibility of any other transactions that are subject to section 23A or concerning any other of Wells Fargo's or HSBC's affiliates.

Very truly yours,

A handwritten signature in black ink, appearing to read "William W. Wiles". The signature is fluid and cursive, with a large initial "W" and a long, sweeping tail.

William W. Wiles
Secretary of the Board

cc: Federal Reserve Bank of San Francisco
Federal Reserve Bank of New York
Office of the Comptroller of the Currency