

## FEDERAL RESERVE SYSTEM

Westpac Banking Corporation  
Sydney, Australia

### Order Approving Notice to Engage in Nonbanking Activities

Westpac Banking Corporation (“Westpac”), Sydney, Australia, a foreign banking organization subject to the provisions of the Bank Holding Company Act (“BHC Act”), has requested the Board’s approval under sections 4(c)(8) and 4(j) of the BHC Act and section 225.24 of the Board’s Regulation Y<sup>1</sup> to engage in certain nonbanking activities through the acquisition of all the voting shares of JOHCM (USA) General Partner Inc. (“JOHCM USA”), Wilmington, Delaware, and its foreign parent company, J O Hambro Capital Management Limited (“JOHCM”), London, England. JOHCM and JOHCM USA would be acquired through Westpac’s subsidiary, BT Investment Management Limited (“BTIM”), Sydney, and BTIM’s wholly owned subsidiary, BTIM UK Limited, London. As a result of the acquisition, Westpac and its subsidiaries would engage in the United States in the following activities:

- (1) providing financial and investment advisory services, in accordance with section 225.28(b)(6) of Regulation Y;<sup>2</sup>
- (2) providing private placement services, in accordance with section 225.28(b)(7) of Regulation Y;<sup>3</sup> and
- (3) acting as the general partner for private investment limited partnerships that invest in assets in which a bank holding company is permitted to invest.

Notice of the proposal, affording interested persons an opportunity to comment, has been published in the Federal Register (76 Federal Register 46,808 (2011)). The time for filing comments has expired, and the Board has considered the

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<sup>1</sup> 12 U.S.C. §§ 1843(c)(8) and (j); 12 CFR 225.24.

<sup>2</sup> 12 CFR 225.28(b)(6).

<sup>3</sup> 12 CFR 225.28(b)(7).

proposal and all comments received in light of the factors set forth in section 4 of the BHC Act.

Westpac, with total assets of approximately \$644 billion, is the third largest bank in Australia by asset size and engages in a broad range of banking and financial services throughout Australia, New Zealand, and the South Pacific region.<sup>4</sup> Westpac operates a federal branch, with total consolidated assets of \$25.5 billion, in New York, New York, and engages in investment advisory activities in the United States through its subsidiary, Hastings Funds Management (USA), San Antonio, Texas.

JOHCM, with approximately \$11 billion in assets under management, is an equity investment management firm registered with the Securities and Exchange Commission (“SEC”) under the Investment Advisors Act of 1940. JOHCM USA serves as the general partner to a private fund, the JOHCM International Select Fund (“the Fund”), Wilmington, Delaware, a limited partnership that invests in a portfolio of publicly traded international equity securities.<sup>5</sup> JOHCM USA privately places limited partnership interests in the Fund with accredited investors, as defined under SEC rules.<sup>6</sup> In addition, JOHCM USA has retained JOHCM to provide investment advice to the Fund.<sup>7</sup>

The Board previously has determined by regulation that financial and investment advisory activities and private placement activities are closely related to banking for purposes of section 4(c)(8) of the BHC Act.<sup>8</sup> In addition, the Board previously has determined by order that private investment limited partnership activities

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<sup>4</sup> Asset and ranking data are as of March 31, 2011.

<sup>5</sup> The Fund is exempt from registration with the SEC under section 3(c)(1) of the Investment Company Act of 1940. 15 U.S.C. § 80a-3(c)(1).

<sup>6</sup> SEC Regulation D, 17 CFR 230.501.

<sup>7</sup> Currently, the Fund is the only U.S. limited partnership for which JOHCM USA serves as the general partner and places limited partnership interests. Westpac proposes to conduct these activities for similar limited partnerships that might be established in the future.

<sup>8</sup> 12 CFR 225.28(b)(6), (7).

are permissible for bank holding companies when conducted within certain limits.<sup>9</sup> Westpac has committed that it will conduct the activities of JOHCM and JOHCM USA in accordance with the limitations set forth in Regulation Y and the Board's orders and interpretations relating to each of the proposed activities.

Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"), which prohibits a banking entity from "acquir[ing] or retain[ing] any equity, partnership, or other ownership interest in or sponsor[ing] a hedge fund or private equity fund,"<sup>10</sup> may restrict the activities in which Westpac proposes to engage. The Board and other federal regulatory agencies recently requested public comment on a proposed regulation to implement section 619 of the Dodd-Frank Act.<sup>11</sup> The regulation has not been finalized and, accordingly, the Board expresses no view on whether the proposed activities would be permissible for Westpac to conduct after the effective date of any final rule the Board may adopt. Westpac has committed that it will conform its activities to comply with the final rule within the deadline established for compliance with section 619 of the Dodd-Frank Act.

To approve the proposal, the Board is required by section 4(j)(2)(A) of the BHC Act to determine that the proposed acquisition of JOHCM USA and the conduct of activities in the United States by JOHCM "can reasonably be expected to produce benefits to the public that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, unsound banking practices, or risk to the stability of the United States banking or financial system."<sup>12</sup> As part of its evaluation of a proposal under these public interest factors, the Board reviews

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<sup>9</sup> See Dresdner Bank AG, 84 Federal Reserve Bulletin 361 (1998); Meridian Bancorp, Inc., 80 Federal Reserve Bulletin 736 (1994).

<sup>10</sup> Pub. L. No. 111-203, 124 Stat. 1376, 1620 (2010).

<sup>11</sup> See <http://www.federalreserve.gov/newsevents/press/bcreg/20111011a.htm>.

<sup>12</sup> 12 U.S.C. § 1843(j)(2)(A).

the financial and managerial resources of the companies involved, the effect of the proposal on competition in the relevant markets, and the public benefits of the proposal.<sup>13</sup>

#### Financial and Managerial Resources

In reviewing the proposal under section 4 of the BHC Act, the Board has considered the financial and managerial resources of the companies involved and the effect of the proposal on those resources. The Board has considered, among other things, confidential reports of examination, information provided by Westpac, and publicly reported and other financial information in assessing the financial and managerial strength of Westpac.

In evaluating the financial factors of this proposal, the Board has considered a number of factors, including capital adequacy and earnings performance. Westpac's capital ratios exceed the minimum levels that would be required by the Basel Capital Accord and are considered equivalent to the capital that would be required of a U.S. banking organization. Moreover, consummation of this proposal would not have a significant impact on the financial condition of Westpac. Based on its review, the Board finds that Westpac has sufficient financial resources to effect the proposal.

In addition, the Board has carefully considered the managerial resources of Westpac, the supervisory experiences of other banking supervisory agencies with Westpac, and Westpac's record of compliance with applicable U.S. banking laws. The Board has also reviewed reports of examination from the appropriate federal supervisors of the U.S. operations of Westpac that assessed its managerial resources. Based on all the facts of record, the Board has concluded that the financial and managerial resources of the organizations involved in the proposal are consistent with approval.

#### Competitive Considerations and Financial Stability

The Board has carefully considered the competitive effects of the proposal. There are numerous existing and potential competitors in the industries for the relevant nonbanking activities. In addition, the markets for the proposed services are regional or

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<sup>13</sup> See 12 CFR 225.26; see, e.g., BancOne Corporation, 83 Federal Reserve Bulletin 602 (1997).

national in scope. Based on all the facts of record, the Board concludes that consummation of the proposal would have no significantly adverse competitive effects in any relevant market.

The Board has also carefully considered information relevant to risks to the stability of the United States banking and financial systems. Specifically, the Board has considered whether the proposal would result in a material increase in risks to financial stability due to an increase in the size of the acquirer, a reduction in the availability of substitute providers of critical financial products or services, or an increase in the extent of the interconnectedness of the financial system. Consummation of this proposal would not result in a significant decrease in the availability of substitute providers of critical financial services or a significant increase in the size of Westpac and would not result in a significant increase in the interconnectedness of the financial system. Based on these and other factors, the Board concludes that financial stability considerations in this proposal are consistent with approval.

#### Public Benefits

As part of its evaluation of the public interest factors under section 4 of the BHC Act, the Board has reviewed carefully the public benefits and possible adverse effects of the proposal. The record indicates that consummation of the proposal would result in benefits to the public by enhancing Westpac's ability to serve its customers.

For the reasons discussed above and based on all the facts of record, the Board has determined that the conduct of the proposed nonbanking activities within the framework of Regulation Y and Board precedent is not likely to result in significantly adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, unsound banking practices, or risk to the stability of the United States banking or financial system. Based on all the facts of record, the Board has concluded that consummation of the proposal can reasonably be expected to produce public benefits that would outweigh any likely adverse effects. Accordingly, the Board has determined that the balance of the public benefits under the standard of section 4(j)(2) of the BHC Act is consistent with approval.

Conclusion

Based on the foregoing and all the facts of record, the Board has determined that the notice should be, and hereby is, approved. 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. The Board's approval is specifically conditioned on compliance by Westpac with the conditions imposed in this order and the commitments made to the Board in connection with the notice. The Board's approval is also subject to the conditions set forth in Regulation Y, including those in sections 225.7 and 225.25(c),<sup>14</sup> and to the Board's authority to require such modification or termination of the activities of Westpac or any of its subsidiaries as the Board finds necessary to ensure compliance with, and to prevent evasion of, the provisions of the BHC Act and the Board's regulations and orders issued thereunder. For purposes of this action, these 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.

By order of the Board of Governors,<sup>15</sup> effective October 24, 2011.

*(signed)*

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Robert deV. Frierson  
Deputy Secretary of the Board

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<sup>14</sup> 12 CFR 225.7 and 225.25(c).

<sup>15</sup> Voting for this action: Chairman Bernanke, Vice Chair Yellen, and Governors Duke and Tarullo. Absent and not voting: Governor Raskin.