

April 1, 2003

[redacted]

Re: [redacted] - De Novo Branch Application into the State of Connecticut

Dear [redacted]:

I have been requested by counsel for [redacted], to advise you of whether or not Pennsylvania law would permit a Connecticut state-chartered bank or national bank located in Connecticut to establish a de novo branch in Pennsylvania.

Section 904 of Pennsylvania's Banking Code of 1965 states:

(a) General rule - An institution may establish and maintain:

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(iii) branches established with the prior written approval of the Department of Banking after the filing of an application for approval in a form prescribed by the Department accompanied by any applicable fee and after investigation by the Department, except that Department approval shall not be required for national banks.

(b) Reciprocity condition - A banking institution existing under the laws of another jurisdiction may not establish a branch in this Commonwealth unless the laws of the state where it is located would permit an institution chartered under the laws of this Commonwealth or a national bank located in this Commonwealth to establish and maintain a branch in such other state on substantially the same terms and conditions.

7 P.S. § 904(a) and (b).

For purposes of applying the provisions of Section 904 of Pennsylvania's Banking Code, the term "institution" is defined as ". . . an institution subject to this act, an interstate bank and a banking institution existing under the laws of another jurisdiction which will become an

interstate bank upon the acquisition of a branch in this Commonwealth.” 7 P.S. § 901. An “interstate bank” is defined as “[a] banking institution existing under the laws of another state, the District of Columbia or a territory or possession of the United States and authorized to engage in the business of receiving demand deposits or a national bank having a head office in another state, the District of Columbia or a territory or possession of the United States and authorized to engage in the business of receiving demand deposits, which lawfully maintains one or more branch offices in this Commonwealth.” 7 P.S. § 102(hh).

Accordingly, a Connecticut state-chartered bank or national bank located in Connecticut which is authorized to receive demand deposits may establish a branch in Pennsylvania pursuant to Section 904 of Pennsylvania’s Banking Code, provided that the laws of the State of Connecticut permit a Pennsylvania state-chartered bank or national bank located in Pennsylvania to establish a de novo branch in Connecticut on substantially the same terms and conditions.

The Department has reviewed applicable interstate branching provisions at Section 36a-412 of the General Statutes of Connecticut<sup>1</sup> and has determined that the provisions of the General Statutes of Connecticut regarding de novo branching are substantially the same as those requirements contained in Section 904 of Pennsylvania’s Banking Code. Accordingly, a Connecticut state-chartered bank or a national bank located in Connecticut which is authorized to receive demand deposits may establish a de novo branch in Pennsylvania pursuant to Section 904 of Pennsylvania’s Banking Code in reciprocity with a Pennsylvania state-chartered bank’s or Pennsylvania-located national bank’s ability to establish a de novo branch in Connecticut pursuant to Section 36a-412 of the General Statutes of Connecticut.

In addition, please be advised that the Pennsylvania Department of Banking applies the procedures and philosophies set forth in the *Nationwide Cooperative Agreement*, dated November 13, 1996, in processing interstate applications of multi-state banking institutions.

The Department's analysis is based upon the facts as stated in this letter. Any change in the facts could result in an amendment or reversal of the Department's position. This letter has been authorized by the appropriate Department personnel and constitutes a duly authorized statement of the Department's position regarding the issues discussed herein. This letter may not be relied upon or construed as constituting legal advice.

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<sup>1</sup> Conn. Gen. Stat. § 36a-412(a)(2) provides, in relevant part, that “[a]ny out-of-state bank, other than a foreign bank, may, with the approval of the commissioner, and in accordance with the provisions of this subdivision, establish a de novo branch in this state. Such establishment shall not take place unless the laws of the home state of such out-of-state bank authorizes, under conditions no more restrictive than those imposed by the laws of this state, as determined by the commissioner, a bank to establish a de novo branch in the home state of such out-of-state bank . . . .”

[redacted]  
April 1, 2003  
Page 3

Please do not hesitate to contact me if you have any further questions regarding this matter.

Sincerely,

Carter D. Frantz  
Staff Counsel

cc: Ronald P. Wysochansky  
Deputy Secretary of Banking  
  
Joseph A. Moretz  
Manager, Corporate Applications