

OFFICE OF THRIFT SUPERVISION

Approval of Rebuttal of Control

Order No.: 2004-58
Date: December 21, 2004
Docket No.: H-3286

The Capital Group Companies, Inc., Brea, California (Acquiror), and several of its investment adviser and investment management subsidiaries, listed in Attachment 1 (collectively, the Rebutting Subsidiaries), have filed a Rebuttal of Control, pursuant to 12 C.F.R. § 574.4(e).

Background

The Acquiror, a savings and loan holding company, and the Rebutting Subsidiaries, which are investment advisers and investment managers, request that the Office of Thrift Supervision (OTS) accept their Rebuttal of Control. The Rebuttal of Control asserts that the Acquiror and the Rebutting Subsidiaries will not directly or indirectly acquire control of a savings and loan holding company or savings association (collectively, Savings Associations) through the Rebutting Subsidiaries as a result of the Rebutting Subsidiaries, in the ordinary course of their businesses, acquiring securities on behalf of their clients solely for investment purposes.

Rebuttal of Control Submission

The Control Regulations at 12 C.F.R. Part 574 state that an acquiror is deemed, subject to rebuttal, to have acquired control of a savings association if the acquiror, directly or indirectly, or through one or more subsidiaries or transactions or acting in concert with one or more persons or companies, acquires more than 10 percent of any class of voting stock of a savings association and is subject to any control factor, as described in 12 C.F.R. § 574.4(c).¹

Parties attempting to rebut control are required to file a submission setting forth facts and circumstances supporting their contention that no control relationship would exist after the proposed acquisition. In addition, such parties must file a rebuttal of control agreement.

OTS may reject any control rebuttal that is inconsistent with the facts and circumstances known to it, or which does not clearly and convincingly rebut the presumption of control. If OTS concludes that it would be injudicious to rely on an acquiror's representations, based on past activities of the acquiror, or other concerns,

¹ 12 C.F.R. §§ 574.4(b)(1)(i) and 574.4(c) (2004).

OTS may conclude that the acquiror has not clearly and convincingly rebutted a determination of control. In addition, an acquiror that is in conclusive control of a Savings Association may not rebut control of that savings association.

The Acquiror and the Rebutting Subsidiaries have filed a written submission setting forth facts and circumstances in support of their contention that no control relationship would exist if the Acquiror and the Rebutting Subsidiaries, as a result of the Rebutting Subsidiaries' businesses, acquire more than 10 percent, and no more than 25 percent, of a class of a Savings Association's equity securities. The Acquiror and the Rebutting Subsidiaries represent that the Rebutting Subsidiaries acquire shares on behalf of their clients for investment purposes only, in the ordinary course of business, and that they would not seek to exert control over a Savings Association's board of directors, management or policies.

The Acquiror and the Rebutting Subsidiaries have submitted a rebuttal of control agreement that includes several material differences from the standard rebuttal agreement set forth at 12 C.F.R. § 574.100. First, the agreement does not relate specifically to one Savings Association, but is intended to address acquisitions of stock of any Savings Association. Because the Acquiror and the Rebutting Subsidiaries have outlined circumstances that would apply to acquisitions of rebuttable control of any Savings Association, OTS does not object to this revision. Second, the agreement provides that the Acquiror and the Rebutting Subsidiaries will not seek or accept any representation on the board of directors of any Savings Association (other than Capital Bank and Trust Company, Brea, California, which is a wholly owned indirect subsidiary of the Acquiror). In light of the general applicability of the agreement to all Savings Associations, OTS considers the limitation appropriate.

Third, the agreement states that the Acquiror and the Rebutting Subsidiaries will be permitted to engage in intercompany transactions, at arms-length, with a Savings Association or its affiliates, in which the Savings Association or affiliate provides banking or other financial services that the Savings Association generally provides in the ordinary course of business. The standard rebuttal agreement does not permit transactions between an acquiror and a savings association for which the acquiror proposes to rebut control. On the basis of the facts presented by the Acquiror and the Rebutting Subsidiaries, OTS has no objection to this modification, which enables the Acquiror and the Rebutting Subsidiaries to obtain customary banking services without regard to the holdings of the Rebutting Subsidiaries.

Fourth, the agreement specifically provides that the Acquiror has agreed not to take any action causing a Savings Association or its subsidiaries to become subsidiaries of the Acquiror or the Rebutting Subsidiaries or dispose or threaten to dispose of shares, of a Savings Association in any manner as a condition of specific action or non-action by the Savings Association. OTS has no objection to this modification, which helps ensure compliance with the Control Regulations.

Fifth, the Acquiror has undertaken to provide OTS, on a quarterly basis, a report disclosing the Acquiror's aggregate stockholdings and each Rebutting Subsidiary's stockholdings of any Savings Association, along with a certification certifying the Acquiror's and the Rebutting Subsidiaries' absence of control, and the Acquiror's and the Rebutting Subsidiaries' compliance with the rebuttal of control agreement. OTS has no objection to this modification, which helps ensure that the applicability of the Rebuttal of Control to all Savings Associations does not result in concerns regarding compliance with the Control Regulations.

Finally, the rebuttal agreement provides that the Acquiror's and the Rebutting Subsidiaries' aggregate shareholdings of any class of a Savings Association's equity security be less than 25 percent. This provision helps ensure that the Acquiror and the Rebutting Subsidiaries do not acquire conclusive control of any Savings Association, and is therefore appropriate.

Conclusion

Based on the foregoing analysis, the Rebuttal of Control is hereby accepted.

By order of the Director of the Office of Thrift Supervision, or his designee,
effective December 21, 2004.



Scott M. Albinson
Managing Director
Office of Examinations, Supervision,
and Consumer Protection

Attachment 1

Rebutting Subsidiaries of The Capital Group Companies, Inc.:

Capital Research and Management Company (CRMC)

Capital Guardian Trust Company (CGTC)

Capital Guardian Trust Company of Nevada (CGTN)

Capital Group International, Inc. (CGII)

Capital International Inc. (CII)

Capital International K.K. (CIKK)

Capital International Limited (CIL)

Capital International S.A. (CISA)