



Comptroller of the Currency
Administrator of National Banks

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CRA Decision #137
October 2006

September 29, 2006

Martha A. Pampel, Esquire
Deputy Regulatory Counsel
HSBC North America Inc.
2700 Sanders Road, Floor 3 South
Prospect Heights, Illinois 60070

Re: HSBC USA Inc's request to change the scope of activities of HSBC Trust Company
(Delaware), National Association, Wilmington, Delaware.
Application Control Number: 2006 NE 12 111 Charter No: 24601

Dear Ms. Pampel:

The Office of the Comptroller of the Currency (OCC) has reviewed your application to expand the scope of activities of HSBC Trust Company (Delaware), National Association, Wilmington, DE (HTCD or Bank), from a limited purpose trust bank to include loans and deposits related to tax refunds. Preliminary conditional approval of the application is hereby granted subject to the conditions discussed below.

The Community Reinvestment Act

At the time of its expansion to a full-service bank charter via an amendment to its Articles of Association, HTCD will become subject to the CRA and to CRA examinations by the OCC. Because the OCC has approved the Bank's request¹ for a designation as a limited purpose bank, the OCC's CRA examinations will focus on the Bank's community development activities under 12 C.F.R. § 25.25. No CRA examination has been performed of HTCD to-date because, as a trust bank, HTCD has not been subject to the CRA.²

¹ The limited purpose designation is effective the date the Bank becomes an insured institution. A separate letter confirming approval of your request is enclosed.

² CRA examinations have, however, been performed on other affiliated national banks. HSBC Bank USA, N.A., formerly a state-chartered bank, received an Outstanding rating from the Federal Reserve Bank of New York as of February 21, 2003. HSBC Bank Nevada, N.A. (HSBCNV), received an Outstanding

Accordingly, the OCC has taken into account HTCD's proposed record of helping to meet the credit needs of the community, including low- and moderate-income (LMI) neighborhoods and how it will meet its CRA objectives. 12 U.S.C. § 2903; 12 C.F.R. § 25.29, 12 C.F.R. §§ 5.20(e) (2). While the OCC received no comments on the application, the FDIC received two comments from the same commenter. The commenter requested the FDIC to extend the public comment period, deny the application, and hold a public hearing. While these comments were not submitted to the OCC, we nevertheless evaluated them in reviewing the application. It is important to note that the majority of the issues raised by the commenter do not concern HTCD itself. Rather, most of the issues stem from claims made against other bank and non-bank entities (both foreign and domestic) owned by or affiliated with the North American holding company, HSBC North America Holdings Inc. (HNAH).

Upon expansion, HTCD intends to limit its activities to marketing trust services and RALs. The commenter raised concerns regarding HTCD's intention to offer RALs, referring to this loan category as a "high cost fringe financial service" and a "predatory business line."

The commenter also alleges discriminatory lending practices based on the 2004 Home Mortgage Disclosure Act (HMDA) data supplied from the three HNAH businesses in the United States that engage in mortgage lending activities reportable under the HMDA. These businesses include Beneficial Mortgage, Decision One Mortgage, and HSBC Mortgage Services.³ Specifically, the commenter relies on HMDA data to argue that HSBC discriminates against minorities by disproportionately denying minorities' mortgage applications and by making a disproportionate portion of its sub-prime mortgages to minorities.

In its response to the FDIC concerning these claims, HNAH stated that each of these businesses has a distinct distribution network, product offering, and customer base, and that each has extensively analyzed their 2004 HMDA data to identify any issues.⁴ It additionally reports that each of these companies has engaged community representatives in discussion of these results.

rating from the OCC as of September 6, 2005. No evidence of discriminatory lending practices was noted at either bank.

³The OCC supervises HSBC Mortgage Corporation as a subsidiary of HSBC Bank USA, N.A. However, the OCC does not supervise HSBC Mortgage Services, Beneficial Mortgage, and Decision One Mortgage because they are neither national banks nor subsidiaries of national banks. In conducting its most recent CRA examination of HSBCNV, the OCC considered the community development activities of Household Finance Corporation (HFC), an affiliate, at that bank's request.

⁴It is important to note that HMDA data alone is not adequate to provide a basis for concluding that a bank is engaged in lending discrimination or indicating whether its level of lending is sufficient. HMDA data do not take into consideration borrower creditworthiness, housing prices, credit scores, and other factors relevant to each credit decision, nor do they fully reflect the range of a bank's lending activities or efforts. The OCC has carefully examined the 2004 HMDA data for HSBC USA and HSBC Mortgage Corporation, and has incorporated the results of the analysis into its supervisory strategy for examinations.

The commenter also argues that various HSBC entities have failed to comply with the Servicemembers' Civil Relief Act of 2003 (SCRA), formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940 (SSCRA). The commenter cites several examples of potential non-compliance with this regulation through documents received under the Freedom of Information Act. In its response, HNAH states that several years ago, a few employees of Household Credit Card Services, a division of what is now HSBCNV (an affiliate of HTCD), did not follow HSBCNV's policy and restricted benefits under SCRA. The Bank represents that the situation was corrected in 2003. The bank further states that the specific examples of alleged non-compliance outlined in the commenter's letter have been forwarded to HSBCNV for review and verification, and that follow-up activities will take place if needed. The OCC has found no indication that compliance with the SCRA is a current issue at the bank.⁵

Finally, the commenter makes several arguments and claims related to the activities of non-bank and foreign affiliates of HTCD and entities outside the United States, but not HTCD itself. The OCC does not have jurisdiction over the activities of these entities. Therefore, the OCC is not in a position to comment on such arguments and claims.

Conclusion

In summary, our review of the record on this application, including the materials submitted with the application, the proposed CRA plan, the public comments to the FDIC, and the Bank's responses and supervisory material, did not reveal any evidence inconsistent with approval.

Accordingly, preliminary conditional approval is granted, subject to the following conditions:

1. The Bank will obtain deposit insurance from the Federal Deposit Insurance Corporation (FDIC) before commencing the proposed activities.
2. HTCD will conduct the proposed activities consistent with the representations and commitments made in the application and by the Bank's representatives including those in the Bank's letter dated September 11, 2006.
3. HTCD: (i) shall give LBS at least sixty (60) days prior written notice of HTCD's intent to significantly deviate or change from its business plan or operations⁶ and (ii) shall obtain the OCC's written determination of no objection before the Bank engages in any significant deviation or change from its business plan or operations. The OCC may impose additional conditions it deems appropriate in a written determination of no objection to a Bank's notice. For the first three years

⁵ We have forwarded the comments to OCC examiners so that this information can be incorporated into our future supervisory reviews.

⁶ If such deviation is the subject of an application filed with the OCC, no separate notice to the supervisory office is required.

after the date hereof, the Bank also must provide a copy of such written notice to the FDIC's New York Regional Office.

4. Within 45 days of the date hereof, HTCD shall develop and submit to Large Bank Supervision (LBS) for review and non-objection, a comprehensive written mystery shopping program for the Refund Anticipation Loan (RAL) business. In the event LBS recommends changes to the program, the Bank shall incorporate those changes. HTCD will implement the program for RALs made in connection with tax returns filed for the 2006 tax year.
5. Within 30 days of the date hereof, HTCD shall develop and submit to LBS for review and non-objection, a comprehensive compliance program applicable to the Bank's RAL lending business, including safeguards designed to prevent unfair or deceptive practices by third parties involved in offering the Bank's RALs. The program must ensure the Bank's compliance and control requirements are adhered to at the time that the loan is made. This program could incorporate the use of mystery shoppers, required by condition # 4, above, as well as other techniques developed by HTCD. In the event LBS recommends changes to the program, the Bank shall incorporate those changes. HTCD will implement the program for RALs made in connection with the tax returns filed for the 2006 tax year.

These conditions of approval are conditions "imposed in writing by the OCC in connection with the granting of any application or other request" within the meaning of 12 U.S.C. § 1818 and, as such, are enforceable under 12 U.S.C. § 1818.

This preliminary conditional approval and the activities and communications by OCC employees in connection with the filing do not constitute a contract, express or implied, or any other obligation binding upon the OCC, the United States (U.S.), any agency or entity of the U.S., or any officer or employee of the U.S., and do not affect the ability of the OCC to exercise its supervisory, regulatory and examination authorities under applicable law and regulations. The foregoing may not be waived or modified by any employee or agent of the OCC or the U.S.

Final approval will not be granted until and unless the Federal Reserve acts favorably on your application to acquire the Bank by converting HSBC USA Inc's limited purpose national trust bank subsidiary, HTCD, into a full service bank. You must furnish the OCC with a copy of all related filings to the Federal Reserve, including registration material.

If you have any questions concerning this preliminary conditional approval, please contact me at (212) 790-4055.

Sincerely,

/s/

Sandya Reddy

Acting Director for District Licensing