



Federal Housing Finance Board

March 22, 1996

MEMORANDUM

TO: Amy R. Maxwell:
Associate Director, District Banks Secretariat

THROUGH: Deborah F. Silberman *DS*
Deputy General Counsel

FROM: Janice A. Kaye *JK*
Attorney-Advisor

SUBJECT: Federal Home Loan Bank (FHLBank) Membership
For A Member That Changes Its Charter and Then
Relocates Its Home Office to, and Merges With
A Member of, a Different FHLBank District

ISSUE:

Which FHLBank district does a FHLBank member that transfers all of its assets and liabilities from one type of financial institution charter to another and immediately thereafter relocates its home office to, and merges with a member of, a different FHLBank district, belong to?

CONCLUSION:

If more than 80 percent of the assets of the consolidated institution are derived from the disappearing institution: (1) the consolidated institution may automatically maintain membership in the FHLBank district of which the disappearing institution was a member prior to consolidation; and (2) the FHLBank membership of the other institution automatically terminates.

DISCUSSION:

I. BACKGROUND

On February 1, 1996, American Trust Bank of West Virginia, Inc. (West Virginia Rank), a Federal Deposit Insurance Corporation (FDIC) insured state chartered savings bank located in Keyser, West Virginia, and a member of the FHLBank of Pittsburgh, converted to a national banking association charter. See

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memorandum from FHLBank of Atlanta to J. Curtis (March 20, 1996) (March 20 Memo). The West Virginia Bank was a subsidiary of Keystone Financial, fnc. (Keystone), a bank holding company located in Harrisburg, Pennsylvania. Id. The name of the newly chartered institution is American Trust Bank, National Association (Trust Bank, N.A.). Id. The assets and liabilities of Trust Bank, N.A. right after the charter conversion were identical to those of the West Virginia Bank right before the charter conversion. See memorandum from FHLBank of Atlanta to J. Curtis (March 21, 1996) (March 21 Memo).

Immediately following the charter conversion, another subsidiary of Keystone, American Trust Bank (Maryland Bank), a FDIC insured, state chartered savings bank located in Cumberland, Maryland, and a member of the FHLBank of Atlanta, merged with and into Trust Bank, N.A. See March 20 Memo. Trust Bank, N.A. is insured by the FDIC and its assets and liabilities immediately after the merger consisted only of the combined assets and liabilities of the West Virginia Bank and the Maryland Bank. see March 21 Memo. Also on February 1, 1996, Trust Bank, N.A. relocated its main office from Keyser, West Virginia to Cumberland Maryland, the location of the former head office of the Maryland Bank. See March 20 Memo.

The FHLBank of Pittsburgh terminated, and the FHLBank of Atlanta automatically continued, the membership of Trust Bank, N.A. The District Banks Secretariat has asked the Office of General Counsel (OGC) to confirm that automatic continuation of the membership of Trust Bank, N.A. in the FHLBank of Atlanta is permissible under the Federal Housing Finance Board's membership regulation. See 12 C.F.R. part 933.

II. ANALYSIS

A. Charter Conversion

On several occasions, OGC previously has concluded that, regardless of the type of conversion transaction, the FHLBank membership of a depository institution that transfers all of its assets and liabilities to a new financial institution charter, may continue uninterrupted provided that the resulting institution is insured, and the assets immediately before and after the transfer are identical. See 12 C.F.R. § 933.2(e): memoranda from J. Kaye to A. Maxwell (Apr. 6, and 19, 1995), and decisions cited therein. Accordingly, because Trust Bank, N.A. is FDIC insured and its assets were identical to the assets of the West Virginia Bank prior to the charter conversion, it could be accorded automatic uninterrupted membership in the Fhlbank of Pittsburgh.

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B. Merger of a Member With and Into
a Member of Another FHLBank

Section 933.11(b) of the Finance Board's membership regulation addresses consolidations involving members of different FHLBanks Id. § 933.11(b). The regulation provides that:

[u]pon consolidation of two member institutions which are members of different [FHL]Banks into one institution operating under the charter of one of the consolidating institutions, the disappearing institution's membership terminates upon cancellation of its charter, except that if more than 80 percent of the assets of the consolidated institution are derived from the assets of the disappearing institution, then the consolidated institution shall continue to be a member of the [FHL]Bank of which the disappearing institution was a member prior to the consolidation and the membership of the other institution terminates upon consummation of the consolidation.

Id. As discussed above, the Maryland Bank, a member of the FHLBank of Atlanta, merged with and into Trust Bank, N.A., a member of the FHLBank of Pittsburgh. See supra § I. The state bank charter of the Maryland Bank was terminated when it merged into Trust Bank, N.A. For purposes of section 933.11(b), the Maryland Bank is "the disappearing institution," and Trust Bank, N.A. is the "consolidated institution.*" According to the FHLBank of Atlanta, 83 percent of the assets of the consolidated institution (i.e., Trust Bank, N.A.) are derived from the assets of the disappearing institution (i.e., the Maryland Bank). See March 20 Memo- Thus, under section 933.11(b), Trust Bank, ~~NA~~ automatically continues to be a member of the FHLBank of Atlanta, the FHLBank of which the Maryland Bank was a member prior to its merger with and into Trust Bank, N.A. In addition, section 933.11(b) requires termination of the membership of Trust Bank, N.A. in the FHLBank of Pittsburgh.

Termination of the membership of Trust Bank, N.A. in the FHLBank of Pittsburgh also is appropriate under another provision of the membership regulation. Immediately after the charter conversion and merger, Trust Bank, N.A. relocated its home office from West Virginia to Maryland. Pursuant to section 933.5 of the Finance Board's membership regulation, Trust Bank, N.A. was no longer eligible for membership in the FHLBank of Pittsburgh. In

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pertinent part, the regulation provides thatt

[a]n institution eligible to become a member . . . may become a member only of the [FHL]Bank of the district in which the institution's principal place of business is located¹

An institution's principal place of business is "the state in which the institution maintains its home office . . ." Id. § 933.5(b). As pointed out above, the home office of Trust Bank, N.A. is the state of Maryland, which is outside the district of the FHLBank of Pittsburgh. Thus, termination of the membership of Trust Bank, N.A. in the FHLBank of Pittsburgh was required by the Finance Board's membership regulation.

cc: Jonathan Curtis
Paul Drolet

1. 12 C.F.R. § 933.5(a)(1). The membership regulation provides also that an institution may, "if demanded by convenience" and with the approval of the Board of Directors of the Finance Board, become a member of the FHLBank district adjoining the district in which its principal place of business is located. Id. § 933.5(a)(2). Trust Bank N.A. did not ask for such approval.