

INTERPRETIVE LETTER 89-15 (NOVEMBER 16, 1989)

Corporate reorganization does not result in change of control requiring the filing of an application for a change of control.

This is in response to your letter of * regarding the applicability of Section 18 of the Illinois Banking Act ("IBA") to the transfer of direct ownership of a state bank within a multi-tiered bank holding company.

As I understand the facts involved, * is contemplating the realignment of the direct legal ownership of certain of its subsidiaries. Presently, * owns a number of subsidiary bank holding companies. The realignment being proposed involves the following three types of transfers of state banks among * and two of its subsidiary bank holding companies:

1. * owns 100% of State Bank A ("Bank A") directly and proposes to transfer legal ownership of Bank A to *'s subsidiary bank holding company ("BHC 1") by a capital contribution to BHC 1 of 100% of Bank A's authorized and outstanding stock.
2. Another * subsidiary bank holding company ("BHC 2") directly owns 100% of the stock of four state banks. BHC 1 will establish a new subsidiary ("Acquisition Corp"). BHC 2 will merge with Acquisition Corp., with BHC 2 being the survivor. In this reorganization, BHC 2 will become a 100% owned subsidiary of BHC 1, and BHC 2's subsidiary banks will become, in effect, wholly-owned subsidiaries of BHC 1.
3. BHC 1 plans to have two of its wholly-owned subsidiary banks, Banks B and C, managed by BHC 2 management. Therefore, BHC 1 will transfer ownership of Banks B and C to BHC 2 by a capital contribution of all of the authorized and outstanding stock of Banks B and C to BHC 2.

Section 18 of the IBA defines the term control to mean "the ownership of such amount of stock or ability to direct the voting of such stock as to give power to, directly or indirectly, direct or cause the direction of the management or policies of the bank."

* presently controls, through stock ownership, all of the subsidiary banks and bank holding companies involved in the proposed reorganization. Upon completion of the proposed reorganization, * would continue to control all of the subsidiary banks and bank holding companies. Therefore, assuming that I have correctly restated the proposed transaction, a change of control will not be required to be filed with this Agency in connection with the proposed reorganization.