

**INTERPRETIVE LETTER 91-24 (SEPTEMBER 16, 1991)**

**When two mid-tier holding companies owned by the same parent merge, and the banks owned by the mid-tier holding companies also merge, the resulting bank may establish or operate branches at any locations to which the merging banks were entitled prior to the merger.**

This is in response to your letter of \* regarding a proposed transaction involving BHC, its two wholly-owned bank holding company subsidiaries, BHC1 and BHC2, and Bank1, a wholly-owned subsidiary of BHC1.

The facts as I understand them are as follows. BHC intends to acquire 100% ownership of BHC3 and its wholly-owned subsidiary, Bank2, through a merger of BHC3 with BHC2 ("Merger 1"). BHC3 will be the surviving entity but will be renamed \* Acquisition ("BHC4"). Once Merger 1 is consummated, BHC proposes to merge Bank2 with and into Bank1 ("Bkmrgr"). The issue you asked this Agency to consider is whether Bank1 and Bank2 will be deemed to be "owned or controlled by the same bank holding company" at the time of the Bkmrgr such that after the Bkmrgr Bank1 will have the power to open and operate any branch that Bank2 was entitled to as of the date of the Bkmrgr pursuant to Section 5(15)(g) of the Illinois Banking Act ("Act") Ill. Rev. Stat. ch. 17, par. 311(15)(g) (1989).

Section 5(15)(g) of the Act provides that:

In any merger or consolidation, other than a merger or consolidation of an insured savings association into a bank, consummated after January 1, 1982...a continuing or resulting bank as defined in this Act, may:

- (ii) open any branch at any location to which the merging bank was entitled under this paragraph (15) prior to the merger or consolidation and operate those branches as branches of the continuing or resulting bank, provided that at the time of the merger or consolidation both banks are owned or controlled by the same bank holding company.

When Merger 1 is completed, BHC will own 100% of the outstanding stock of both Bank1 and Bank2 by virtue of its ownership of 100% of the stock of BHC1 and BHC4. Therefore, subsequent to the Bkmrgr, Bank1 may open and operate a branch at any location to which Bank2 was entitled to as of the effective date of the Bkmrgr, pursuant to Section 5(15)(g) of the Act.