

I agree with the OCC Chief Counsel's analysis on these issues and her observations in Interpretive Letter 822 regarding the significance of an appropriate disclosure to customers that the interest to be charged on the loan is governed by applicable federal law and the law of the relevant state which will govern the transaction.

#### The Non-Ministerial Functions

The OCC identified three non-ministerial functions for national banks in Interpretive Letter No. 822 based upon the Riegle-Neal Act's legislative history. An inquiry is required to determine the location where each of the non-ministerial functions occur. Briefly stated, the OCC determined that "approval" (i.e., the decision to extend credit) occurs where the person is located who is charged with making the final judgment of approval or denial of credit, and the site of the final approval is the location where it is granted. "Disbursal" means actual physical disbursal of the proceeds of a loan, as opposed to the delivery of previously disbursed funds to the customer. Disbursal can occur in various ways, including delivery to the customer in person or crediting proceeds to the customer's account at a branch, but does not include delivering the funds to an escrow or title agent who, in turn, disburses them to the customer or for the customer's benefit. "Extension of credit" means the site from which the first communication of final approval of the loan occurs.

While the need for such inquiries as to non-ministerial functions may not be initially apparent, I believe that Senator Roth's distinction for purposes of the "disbursal" function between "the actual disbursal of proceeds" and "delivering previously disbursed funds to a customer" is indicative of the type of inquiry Congress intended in order to identify non-ministerial functions which effect where a loan is made for purposes of determining the state law to be applied to a loan. The same definitions should be equally applicable to State banks under section 1831d.

#### Conclusion

An Interstate State Bank can be "located" for purposes of section 1831d in the state in which it is chartered, as well as the states where the bank's out-of-state branch or branches are located. The Interstate Banking Statutes do not affect the ability of an Interstate State Bank to export interest rates on loans made to out-of-state borrowers from that bank's home state, even if the bank maintains a branch in the state where the borrower resides. If an out-of-state

branch or branches of an Interstate State Bank in a single host state performs all the non-ministerial functions (approval of an extension of credit, extension of the credit, and disbursal of loan proceeds to a customer) related to a loan, it "makes" the loan to the customer for purposes of the Interstate Banking Statutes and the loan should be governed by the usury provisions of the host state. If the three non-ministerial functions occur in different states or if some of the non-ministerial functions occur in an office that is not considered to be the home office or branch of the bank, then home state rates may be used. Alternatively, in those situations the interest rates permitted by the host state where a non-ministerial function occurs may be applied, if based on an assessment of all of the facts and circumstances, the loan has a clear nexus to the host state. To avoid uncertainty regarding which state's interest rates apply to a loan Interstate State Banks should make an appropriate disclosure to the customer that the interest to be charged on the loan is governed by applicable federal law and the law of the relevant state which will govern the transaction.

Authorized to be published in the **Federal Register** by Order of the Board of Directors dated at Washington, DC, this 9th day of May, 1998.

Federal Deposit Insurance Corporation,  
**Robert E. Feldman,**  
*Executive Secretary.*  
[FR Doc. 98-13084 Filed 5-15-98; 8:45 am]  
BILLING CODE 6714-01-P

## FEDERAL MARITIME COMMISSION

### Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

*Agreement No.:* 217-011317-003.  
*Title:* PONL/BHP-IMTL Space Charter Agreement.

*Parties:* P&O Nedlloyd Limited ("PONL") BHP-IMTL.

*Synopsis:* The proposed Agreement modification (1) substitutes P&O Nedlloyd Limited for its commonly-

owned affiliate, P&O Nedlloyd B.V. (formerly named Nedlloyd Lijnen BV) as party to the Agreement; (2) changes the name of the Agreement to reflect the foregoing substitution; (3) deletes U.S. Atlantic and Gulf ports, as well as the ports in New Zealand, Chile, Peru, and Panama from the scope of the Agreement; and (4) makes other non-substantial changes to the Agreement.

Dated: May 12, 1998.

By Order of the Federal Maritime Commission.

**Joseph C. Polking,**

*Secretary.*

[FR Doc. 98-13057 Filed 5-15-98; 8:45 am]

BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 12, 1998.

**A. Federal Reserve Bank of Boston** (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. *Summit Bancorp, Inc.*, Medway, Massachusetts; to become a bank holding company by acquiring 100