

*Case No IV/M.681 - RB  
of Scotland / Bank of  
Ireland*

Only the English text is available and authentic.

**REGULATION (EEC) No 4064/89  
MERGER PROCEDURE**

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Article 6(1)(a) INAPPLICABILITY  
Date: 05/02/1996

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 5.02.1996

PUBLIC VERSION

MERGER PROCEDURE  
ARTICLE 6(1)(a)DECISION

To the notifying parties

Dear Sirs,

Subject : Case No IV/M.681 - RB of Scotland/Bank of Ireland  
Notification of 3.1.1996 pursuant to Article 4 of Council Regulation No 4064/89

1. On 03.01.1996, the Commission received a notification of a proposed concentration by which the Royal Bank of Scotland Group plc ("RBSG") and the Bank of Ireland ("BOI") will merge their American banking activities.
2. After examination of the notification, the Commission has concluded that the notified operation does not have a Community dimension and therefore does not fall within the scope of the Merger Regulation.

**I. THE PARTIES**

3. RBSG is a holding company whose only direct operating subsidiary is the Royal Bank of Scotland plc ("RBS"). RBS is a commercial bank based in Scotland but operating throughout the United Kingdom. RBS and its subsidiaries are engaged principally in providing a comprehensive range of banking, insurance and other financial services.
4. Citizens Financial Group ("Citizens") is a Delaware corporation and wholly-owned subsidiary of RBSG. It is active in consumer banking and lending to small and medium sized enterprises in the New England area of the U.S.A.

5. BOI is a holding company. It is a credit institution. BOI and its subsidiaries are engaged in providing a comprehensive range of banking services through its four divisions; Retail; Corporate and Treasury; Bank of Ireland First Holdings; and Other Group Activities. BOI operates primarily in Ireland.
6. Bank of Ireland First Holdings, Inc. ("BOIFH") is a New Hampshire corporation and wholly-owned subsidiary of BOI. It is active in consumer banking and lending enterprises in the New England area of the U.S.A.

## **II. THE OPERATION**

7. The proposed transaction will involve the merger of BOIFH and Citizens. BOI will sell the entire common stock of BOIFH to Citizens, and BOIFH will be merged into Citizens. In exchange, BOI will receive stock representing 23.5% of the enlarged Citizens, whilst RBSG will retain the remaining 76.5% of the stock.

## **III. CONCENTRATION**

8. The transaction constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation in view of the change of control of BOIFH.

## **IV. COMMUNITY DIMENSION**

9. RBSG and BOI have jointly agreed a [...] <sup>(1)</sup> business plan for the enlarged Citizens. This business plan sets out the proposed development of Citizens for the period [...] <sup>(2)</sup>. It is summarised in a Strategic Plan. [...] <sup>(3)</sup>
10. As far as the market behaviour of the enlarged Citizens is concerned the most important elements in the Strategic Plan relate to [...] <sup>(4)</sup>
11. The Strategic Plan does not make explicit provision for the co-determination by RBSG and BOI of detailed annual business plans and budgets. Rather, the Strategic Plan contains merely general declarations concerning the business aims of the enlarged Citizens, and as such is not sufficient to confer joint control.
12. The stockholder agreement stipulates that each year Citizens shall prepare a detailed annual budget and business plan. Both RBSG and BOI will have the right to comment on the annual plan, but it is the board of directors of Citizens that has the right to approve the plan.
13. The enlarged Citizens may have up to fifteen directors. BOI will be entitled to appoint two, whilst RBSG will be entitled to appoint three of these directors. The remaining directors will represent various community interests in the locality in which Citizens will operate. Thus RBSG directors will outnumber BOI directors on the board, which latter,

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<sup>(1)</sup> Deleted: business secret

<sup>(2)</sup> Deleted: business secret

<sup>(3)</sup> Deleted: business secret

<sup>(4)</sup> Deleted: business secret

as stated above, approves detailed annual plans. Hence BOI directors will not have a veto right over annual plans.

14. In view of the above, the stock-holder agreement does not confer joint control over the enlarged Citizens. BOI is selling the common stock of BOIFH to Citizens, and will receive a minority shareholding in the latter. In view of Article 5(2) of the merger regulation, only the turnover relating to the subject of the transaction is to be taken into account with regard to the seller. Hence the turnover to be taken into account for the purposes of determining whether the notified transaction has a community dimension is that of BOIFH, Citizens and RBSG. Only RBSG has a community wide turnover of more than 250 million ECU.
15. Therefore, the conditions of Article 1.2(b) of the Merger Regulation are not satisfied, and the notified transaction does not have a Community dimension.N° 4064/89.

## **V. CONCLUSION**

16. Based on the above, the Commission has concluded that the notified operation does not have a Community dimension within the meaning of Article 1 of the Merger Regulation and therefore does not fall within the scope of the Merger Regulation. This decision is adopted in application of Article 6(1)(a) of Council Regulation No 4064/89.

For the Commission,