

OFFICE OF THRIFT SUPERVISION

Approval of Application for Permission to Organize a Federal Savings Bank

Order No.: 2009-28
Date: May 22, 2009
Docket No.: 18117

Twelve individuals have applied to the Office of Thrift Supervision (OTS), pursuant to 12 U.S.C. § 1464(e) and 12 C.F.R. § 552.2-1 for permission to organize Pacific Palisades Bank, FSB, Pacific Palisades, California (Savings Bank). The twelve persons are: William H. Butler, Jr.; Bradley C. Fauvre; William R. Fritzsche; Robert O. Klein; Sterling S. Lanier; Brad M. McCoy; Dorothy F. Menzies; Scott A. Montgomery; William Mortensen; James R. Wadsworth; James R. Wallace; and Michael Wojciechowski (collectively, the Organizers). The Organizers will constitute the Savings Bank's board of directors. Certain Organizers and nineteen other persons have contributed funds to assist in the organization of the Savings Bank.

The Savings Bank will be organized as a Federally chartered, Deposit Insurance Fund (DIF)-insured, stock savings bank and will be a full service Federal savings bank.

The Proposed Transaction

The Organizers propose to establish a *de novo* Federal stock savings association, the Savings Bank. The Savings Bank proposes to operate from one location, in Pacific Palisades, California. The Organizers are conducting an initial public offering of a minimum of 1,800,000 shares to a maximum of 2,250,000 shares of the Savings Bank's common stock in order to capitalize the Savings Bank with approximately \$18 million (at the minimum of the offering).

The Organizers have applied to the Federal Deposit Insurance Corporation (FDIC) for deposit insurance under the DIF for the Savings Bank's deposit accounts.

Permission to Organize Application

OTS may grant a Federal savings association charter only: (i) to persons of good character and responsibility; (ii) if, in OTS's judgment, a necessity exists for such association in the community to be served; (iii) if there is a reasonable probability for the association's usefulness and success; and (iv) if the association can be established without undue injury to properly conducted existing local thrift and home financing institutions. In addition, OTS must consider whether the association will provide credit for housing consistent with the safe and

sound operation of a Federal savings association. OTS also considers the initial capitalization of the Federal savings association, and the residence and composition of the savings association's board of directors.

Further, 12 C.F.R. § 563e.29(b) provides that an applicant for a Federal thrift charter must submit with its application a description of how it will meet its Community Reinvestment Act (CRA) objectives. OTS is required to take this description into account when considering the application and may deny or condition approval on CRA grounds.

OTS has reviewed the backgrounds of the proposed officers of the Savings Bank, as well as the backgrounds of the Organizers. OTS's review did not reveal any material adverse information regarding the proposed officers of the Savings Bank, or regarding the Organizers. Thus, OTS concludes that the character and responsibility of the Organizers and the proposed officers of the Savings Bank are consistent with approval.

As for the necessity for the Savings Bank in the community, there has been a significant increase in the population and deposits in Los Angeles County, California, over the past five years. The application indicates that the population and deposits in Los Angeles County will continue to increase in the future.

Since January 1, 2008, nine financial institutions with offices in the Los Angeles County market have been placed into receivership by banking regulators. The nine institutions had 288 offices in the market area. Most of those offices remain open to the public as offices of other financial institutions. OTS has reviewed the relevant circumstances, and believes these failures resulted from the lending practices of the specific institutions involved, and not from a lack of need for deposit and lending services in the market area. Therefore, OTS concludes that the recent failures do not indicate a lack of necessity for the Savings Bank. OTS concludes that this approval criterion is satisfied.

With respect to undue injury to properly conducted existing local thrift and home financing institutions, the Savings Bank's projected level of deposits in its first and third years of operations will constitute less than one percent of the deposits in the Los Angeles County. Accordingly, OTS concludes that the Savings Bank will not cause undue injury to properly conducted existing local thrift and home financing institutions.

With respect to the reasonable probability of the Savings Bank's usefulness and success, OTS reviewed the competence and experience of the proposed management of the Savings Bank, its business plan, and its proposed capital levels. OTS concludes that the business plan is reasonable, that the Savings Bank will have adequate capital, that the Savings Bank will be able to conduct its operations appropriately, and that the Savings Bank's managerial and financial resources are consistent with a reasonable probability of success. Because policies and procedures submitted in the application were not in final form, OTS is imposing condition 5. This condition will help ensure the safe and sound operation of the Savings Bank. OTS is imposing conditions 6, 7, and 8 to help ensure that the Savings Bank operates pursuant to an

OTS-approved business plan and that changes to and from such a business plan are not detrimental to the Savings Bank. OTS is imposing condition 9, to ensure that the Savings Bank's management continues to have the necessary competence to contribute to the Savings Bank's usefulness and success.

Based on the foregoing analysis, OTS concludes that the probability of the Savings Bank's usefulness and success is consistent with approval, subject to the imposition of the conditions, which are intended to help ensure the Savings Bank's usefulness and success.

With respect to the provision of credit for housing in a safe and sound manner, the Savings Bank will engage in mortgage lending and investing in mortgage-backed securities as a means of providing credit for housing. The Savings Bank's business plan and other information reflect that the Savings Bank will satisfy the qualified thrift lender test. Based on these considerations, and the facts discussed in connection with the probability of the Savings Bank's usefulness and success, OTS concludes that the Savings Bank will provide credit for housing in a safe and sound manner, subject to the imposition of the conditions.

With respect to capital, the Savings Bank will have more initial capital than is required by OTS regulations and the Savings Bank plans to be well capitalized throughout its first three years of operations. Accordingly, OTS concludes that the Savings Bank's proposed capital levels are consistent with approval.

OTS regulations require that a majority of a *de novo* Federal association's board of directors be "representative" of the state in which the association is located. OTS regulations also require that a *de novo* Federal association's board of directors be diversified and composed of individuals with varied business and professional experience. The regulations provide that, except in the case of a *de novo* Federal association that is wholly owned by a holding company, no more than one-third of a *de novo* Federal association's board of directors may be in closely related businesses. The members of the Savings Bank's board of directors meet the residency requirement for a *de novo* Federal savings association, and the diversity requirement. Based on the information provided, OTS concludes that no more than one-third of the directorate is engaged in closely related businesses.

With respect to the CRA and OTS's CRA regulations, the Savings Bank's CRA assessment area will consist of Los Angeles County, California. The Savings Bank will have only one office, which will be located in a high-income area. Accordingly, to help ensure that the Savings Bank is meeting its CRA obligations, OTS is imposing condition 10. With condition 10 imposed, OTS concludes that the Savings Bank has satisfactorily demonstrated that it will meet its CRA objectives.

The Savings Bank's proposed charter and bylaws conform with OTS regulations, except in one respect. OTS's bylaw regulations, at 12 C.F.R. § 552.6(h), provide that a Federal stock savings association may adopt a bylaw permitting an action that could be taken at a meeting of stockholders, to be taken without a meeting if unanimous written consent is given by all

stockholders entitled to vote with respect to the subject matter. The Savings Bank proposes a bylaw that would also permit the Savings Bank to obtain written consents from stockholders who, in the aggregate, possess the minimum number of votes (or greater) that would be required at a stockholders' meeting to authorize or take the desired action, assuming that all shares are present and voting. If the proposed action is adopted based on receipt of the requisite written consents, but not unanimous written consents, notice must be provided to non-consenting stockholders at least fifteen days before the proposed action is consummated. Thus, the proposed bylaw is inconsistent with 12 C.F.R. § 552.6(h).

OTS may permit a Federal stock savings association to adopt a bylaw that is inconsistent with section 552.6(h). See 12 C.F.R. § 552.5(a). The proposed bylaw does not permit selective solicitation of consents and requires, at a minimum, written consents in the number that would be required by a stockholder vote to adopt the desired action at a stockholders' meeting, assuming that all shares are present and voting. In addition, non-consenting stockholders will receive prior notification of the action to be taken. OTS has not identified any safety and soundness issues regarding the proposed bylaw. Accordingly, OTS does not object to the proposed bylaw.

Conclusion

Based on the information provided with the application, OTS's analysis of such information, and the representations of the Organizers, OTS concludes that the application satisfies the applicable approval standards, provided that the following conditions are complied with in a manner satisfactory to the Western Regional Director or his designee (Regional Director). Accordingly, the application is hereby approved, subject to the following conditions:

1. The Savings Bank must receive all required regulatory approvals prior to consummation of the proposed transaction with copies of all such approvals provided to the Regional Director;
2. The proposed transaction must be consummated within 120 calendar days from the date of this Letter;
3. On the business day prior to the date of consummation of the proposed transaction, the chief financial officer of the Savings Bank must certify in writing to the Regional Director that no material adverse changes have occurred with respect to the financial condition or operation of the Savings Bank, as disclosed in the application. If additional information having a material adverse bearing on any feature of the application is brought to the attention of the Organizers, the Savings Bank, or OTS since the date of the financial statements submitted with the application, the transaction must not be consummated unless the information is presented to the Regional Director, and the Regional Director provides written non-objection to consummation of the transaction;

4. The Savings Bank must, within 5 calendar days after the effective date of the proposed transaction: (a) advise the Regional Director in writing of the effective date of the proposed transaction and of the Savings Bank's insurance of accounts; (b) advise the Regional Director in writing that the transaction was consummated in accordance with all applicable laws and regulations, the application and this Letter; and (c) provide a reconciliation of the Savings Bank's capital to the Regional Director;
5. Prior to opening for business, the Savings Bank must finalize detailed policies and procedures for all major areas of operations, and submit them to the Regional Director, along with a resolution of its board of directors evidencing its review and approval of such policies and procedures;
6. The Savings Bank must operate within the parameters of an OTS-approved business plan for the first three years of operations. The Savings Bank must submit to the Regional Director for prior approval, requests for any proposed major deviations or material changes to the three-year plan, no later than 60 calendar days prior to the desired implementation date, with a copy sent to the FDIC Regional Office;
7. For three years following the Savings Bank's commencement of operations, the Savings Bank must submit to the Regional Director within 45 calendar days after the end of each calendar quarter, a business plan variance report detailing the Savings Bank's compliance with the business plan and an explanation of any material deviations;
8. The Savings Bank must submit independent audit reports to the Regional Director for its first three years of operations. These reports must be in compliance with the audit rules set forth at 12 C.F.R. § 562.4;
9. For three years following the Savings Bank's commencement of operations, the Savings Bank must receive the prior written non-objection of the Regional Director for any proposed new directors or senior executive officers not already reviewed by OTS, or any significant change in responsibilities of any senior executive officer; and
10. No later than 30 days after the end of each calendar quarter, the Savings Bank must submit a status report, in a form acceptable to the Regional Director, that details: (i) the results of its various lending programs and initiatives; and (ii) its level of lending to low- and moderate-income individuals, to low- and moderate-income communities, and to small businesses. This quarterly report is required

until at least the completion of the Savings Bank's first CRA examination cycle, but in no case beyond 18 months after opening for business.

The Regional Director may, for good cause, extend any time period set forth herein for up to 120 calendar days.

By order of the Acting Director of the Office of Thrift Supervision, or his designee, effective May 22, 2009.



Grovetta N. Gardineer
Managing Director
Corporate & International Activities