OFFICE OF THRIFT SUPERVISION

Approval of Holding Company and Related Applications

Order No.: 2003-25
Date: July 9, 2003
Docket Nos.: H-3935, H-3936,
H-3891, 00423, 08097

Western-Southern Mutual Holding Company (MIHC), Western and Southern Financial Group, Inc. (SIHC), and The Western and Southern Life Insurance Company (LIC), Cincinnati, Ohio (collectively, the Applicant), have applied pursuant to 12 U.S.C. § 1467a(e) and 12 C.F.R. Part 574 (Control Regulations), for the approval of the Office of Thrift Supervision (OTS) to acquire Fort Washington Trust Company, Cincinnati, Ohio (Savings Bank), and Kenwood Savings Bank, Cincinnati, Ohio (KSB). Also, the Savings Bank and KSB have applied, pursuant to 12 U.S.C. § 1828(c) (BMA) and 12 C.F.R. § 563.22 (Merger Regulations), for OTS approval of the merger of KSB into the Savings Bank. In addition, KSB and Peoples Community Bank, West Chester, Ohio (PFSB), which currently owns all of the stock of KSB, seek OTS approval, under the BMA and the Merger Regulations, for PFSB's purchase and assumption of substantially all of the assets and liabilities of KSB, immediately prior to PFSB's sale of KSB to the Applicant, and OTS approval, under 12 C.F.R. § 563.140 et seq., of KSB's proposed capital distribution of $4.6 million to PFSB. (Collectively, the foregoing are referred to herein as the Applications.)

The Applicants

MIHC owns all of the common stock of SIHC, which owns all of the stock of LIC. LIC is a life insurance company, and engages in other activities through several direct and indirect subsidiaries. The Savings Bank is being organized by the Applicant and will be an Ohio-chartered, Savings Association Insurance Fund (SAIF)-insured, stock savings association.

PFSB is a SAIF-insured federal stock savings bank, which is headquartered in West Chester, Ohio. PFSB is a wholly owned subsidiary of Peoples Community Bancorp, Inc., West Chester, Ohio, a savings and loan holding company.

KSB is a SAIF-insured, Ohio-chartered stock savings association, headquartered in Cincinnati, Ohio. It was acquired by PFSB on April 26, 2002 and is currently a wholly owned direct subsidiary of PFSB.

The Proposed Transaction

The Applicant proposes to establish the Savings Bank as a wholly owned, direct subsidiary of LIC, and proposes to merge KSB into the Savings Bank, with the Savings Bank as the surviving institution. Immediately prior to the consummation of LIC's proposed acquisition of KSB, PFSB will purchase all of the assets and assume all of the liabilities of KSB, except for approximately $10 million of assets, and approximately $10 million of liabilities. The transaction results in a capital distribution to PFSB.

Holding Company Application

Section 10(e) of the Home Owners' Loan Act and the OTS Control Regulations provide that in reviewing the proposed acquisition of a savings association by a savings and loan holding company, OTS must consider the managerial and financial resources and future prospects of the company and associations involved, the effect of the acquisition on the associations, the insurance risk to the SAIF, and the convenience and needs of the community to be served. OTS also must consider the impact of any acquisition on competition. Further, OTS must take into account assessments under the Community Reinvestment Act (CRA) when approving holding company acquisitions.

As for managerial resources, OTS has reviewed the managerial resources of the Applicant, the Savings Bank, and KSB. Immediately following the Applicant's acquisition of KSB, KSB will be merged into the Savings Bank, which will be the resulting savings association. Based on a review of the managerial resources of the Applicant, the Savings Bank, and KSB, OTS concludes that the management resources of the Applicant, the Savings Bank, and KSB, are consistent with approval.

As for financial resources, OTS has reviewed the financial resources of the Applicant, the Savings Bank, KSB, and the Savings Bank's proposed capitalization and business plan. The Savings Bank's pro forma financial statements project that the Savings Bank will meet all of its capital requirements and will be "well capitalized" under the OTS Prompt Corrective Action regulation throughout the first three years of operation. Based on a review of the financial resources of the Applicant, the Savings Bank, and KSB, OTS concludes that the financial resources of the Applicant, the Savings Bank, and KSB, are consistent with approval.

Based on its consideration of the managerial and financial resources of the Applicants, the Savings Bank, and KSB, OTS concludes that the future prospects of the Applicant, the Savings Bank, and KSB, and the effect of the transaction on the SAIF are consistent with approval, provided that OTS imposes the conditions set forth below.

Each of the conditions below helps ensure that the Applications are consistent with the approval criteria, because they help ensure that the Applicant's, the Savings Bank's, and KSB's, future prospects are consistent with approval. Specifically, the conditions help OTS monitor the Savings Bank, ensure that its management remains qualified, and help reduce litigation and reputation risk.

As for the competitive impact of the proposed transaction, the Savings Bank currently does not engage in any business activities and the Applicant has no other depository institution subsidiaries. Accordingly, the holding company application does not contemplate the affiliation of two or more operating depository institutions. The Department of Justice (DOJ) and the other three bank regulatory agencies did not object to the competitive impact of the proposed transaction. Based on the foregoing, OTS concludes that the competitive considerations are consistent with approval.

As for CRA, the Savings Bank has no history and KSB's most recent CRA rating is "Satisfactory." No comments objecting to the Applications have been filed. Accordingly, OTS concludes that approval of the transaction is consistent with the CRA.

As for convenience and needs, for the reasons set forth under the analysis of the BMA transactions, OTS concludes that the convenience and needs of the community are consistent with approval.

Bank Merger Act Applications

PFSB and KSB seek the approval of OTS under the BMA and the Merger Regulations for PFSB's purchase and assumption of substantially all of the assets and liabilities of KSB. In addition, KSB and the Savings Bank seek OTS approval, pursuant to the BMA and the OTS Merger Regulations, for the subsequent merger of KSB into the Savings Bank.

In evaluating a BMA application, OTS considers the effect on the capital of the resulting association; the financial and managerial resources of the constituent institutions; the future prospects of the constituent institutions; the convenience and needs of the community; the effectiveness of the depository institutions in combating money laundering activities; conformance to applicable law, regulation, and supervisory policy; factors relating to fairness of and disclosure concerning the transaction, and the effect on competition. OTS also considers the constituent savings associations' record of performance under the CRA.

PFSB and KSB Purchase and Assumption Transaction

As for capital, the Applications indicate that both PFSB and KSB are well capitalized, and after the purchase and assumption transaction, PFSB will continue to be well capitalized. Immediately following the purchase and assumption transaction, KSB will be merged into the Savings Bank. The resulting institution, the Savings Bank, will be well capitalized. Based on the foregoing, OTS concludes that the level of capital for PFSB and KSB is consistent with approval.

As for financial and managerial resources and future prospects, the Applications indicate that the purchase and assumption transaction will not have a material impact on the financial and managerial resources or future prospects of PFSB. In addition, because KSB is already fully consolidated into PFSB, the net effect of the subject transaction, in addition to the transaction involving the merger of KSB into the Savings Bank and its acquisition by LIC, will be an increase in PFSB's capital ratios. PFSB's management and directors will not change as a result of the transaction. Based on the foregoing, OTS concludes that the financial and managerial resources and future prospects of PFSB and KSB are consistent with approval.

As for convenience and needs of the community, OTS's review of the Applications shows no evidence that the transaction would adversely affect PFSB's ability to meet the convenience and needs of its community. As a much larger financial institution, PFSB offers more products and services than KSB. Based on the foregoing, OTS concludes that convenience and needs considerations are consistent with approval of the proposed transaction.

As for the CRA, OTS has considered PFSB's and KSB's record of performance under the CRA in assessing the proposed transaction. PFSB, whose management will continue in place, has a "Satisfactory" CRA rating. KSB also has a "Satisfactory" CRA rating. Based on the foregoing, OTS concludes that approval of the proposed transaction is consistent with the CRA.

As for conformance to law, regulation and supervisory policy, OTS's review of the Applications did not indicate any violation of law or regulations, or non-compliance with supervisory policies, in connection with the proposed transaction. Based on the foregoing, OTS concludes that approval of the proposed transaction is not objectionable based on conformity of the proposed transaction to applicable law, regulation, and supervisory policies.

As for compliance with money laundering statutes and regulations, OTS has reviewed the compliance records of PFSB and KSB, which involves an evaluation of their anti-money laundering practices and compliance with anti-money laundering provisions. On the basis of the foregoing, OTS concludes that PFSB's and KSB's effectiveness in combating money-laundering activities is consistent with approval.

As for factors regarding equitable treatment and disclosure, employment contracts, and advisory boards, OTS's review of the Applications indicates that the proposed transaction appears to be equitable to all concerned. PFSB and KSB published notice of the transaction, and OTS received no comment from the public. There are no proposed increases in compensation to officers, directors, or controlling shareholders of KSB, as a result of the proposed transaction. There is no proposed advisory board. On the basis of the foregoing, OTS concludes that approval of the proposed transaction is not objectionable based on equitable treatment, full disclosure, and compensation of officers and directors, and advisory boards.

As for the competitive effects of the proposed transaction, because PFSB controls KSB, PFSB's proposed purchase of assets and assumption of liabilities of KSB is competitively neutral. Neither the DOJ nor the other banking regulators objected to the proposed transaction on competitive grounds. Based on the foregoing, OTS concludes that the competitive considerations are consistent with approval.

Application for Merger of KSB into the Savings Bank

As for capital, based on the financial projections provided in the Applications, the Savings Bank will comply with the OTS capital requirements and will remain well-capitalized following the merger of KSB into the Savings Bank. Based on the foregoing, OTS concludes that the level of capital for KSB and the Savings Bank is consistent with approval.

As for financial and managerial resources, OTS's review of the Applications indicates that the merger will not have an adverse impact on the financial and managerial resources of KSB and the Savings Bank. The Applications indicate that the Savings Bank will be well capitalized and that its projected profitability level will be satisfactory upon consummation of the transaction. Based on the financial projections included in the Applications, the Savings Bank is expected to remain well capitalized throughout the first three years of operations. The Savings Bank should become profitable more quickly than a typical newly chartered savings association, because the Savings Bank will be acquiring $10 million of KSB's assets and liabilities. The Applications indicate that the Savings Bank has sufficient management resources and the Savings Bank's proposed officers and directors have ample experience. Based on the foregoing, OTS concludes that the financial and managerial resources of KSB and the Savings Bank are consistent with approval.

Based on its consideration of the financial and managerial resources of KSB and the Savings Bank and the proposed capital and business plan of the Savings Bank, OTS concludes that the future prospects of KSB and the Savings Bank are consistent with approval.

As for convenience and needs of the community, OTS's review of the Applications showed no evidence that the proposed transaction would adversely affect the Savings Bank's ability to meet the convenience and needs of its community. The Savings Bank's office will be open to the public and its products and services will be available to the public. The Savings Bank will offer NOW accounts, certificates of deposit, 1-4 family residential mortgage loans and trust products to the public, including the accountholders and loan customers for the deposits and loans to be acquired from KSB. Based on the foregoing, OTS concludes that convenience and needs considerations are consistent with approval of the proposed transaction.

As for CRA, OTS has considered KSB's record of performance under the CRA in assessing the proposed transaction. KSB was assigned a "Satisfactory" CRA rating, at its compliance examination on June 25, 1999. The Savings Bank will be a newly chartered savings association and does not have a CRA record. Based on the foregoing, OTS concludes that approval of the proposed transaction is consistent with the CRA.

As for conformance to law, regulation and supervisory policy, OTS's review of the Applications did not indicate any violation of law or regulations, or non-compliance with supervisory policies, in connection with the proposed merger. Based on the foregoing, OTS concludes that approval of the proposed transaction is not objectionable based on conformity of the proposed merger to applicable law, regulation, and supervisory policies.

As for compliance with money laundering statutes and regulations, OTS has reviewed the compliance records of KSB, which involves an evaluation of its anti-money laundering practices and compliance with anti-money laundering provisions. While the Savings Bank has no history of such compliance, the Applications indicate that it will comply. On the basis of the foregoing, OTS concludes that KSB's and the Savings Bank's effectiveness in combating money laundering activities is consistent with approval.

As for factors regarding equitable treatment and disclosure, employment contracts, and advisory boards, OTS's review of the Applications indicates that the proposed merger appears to be equitable to all concerned. The Applications indicate that the transaction was negotiated at arm's length. The Savings Bank and KSB published notice of the proposed merger. OTS received no comments from the public. There are no proposed increases in compensation that would give rise to presumptions of unreasonableness or sale of control. There are no proposed increases in compensation to officers, directors, or controlling persons of KSB, as a result of the proposed transaction. There is no proposed advisory board. On the basis of the foregoing, OTS concludes that approval of the proposed transaction is not objectionable based on equitable treatment, full disclosure, and compensation of officers and directors, and advisory boards.

As for the competitive impact of the proposed merger, the Savings Bank currently does not engage in any business activities and the Applicant has no other depository institution subsidiaries. Accordingly, the holding company application does not contemplate the affiliation of two or more operating depository institutions. The DOJ and the other three bank regulatory agencies did not object to the competitive impact of the proposed transaction. Based on the foregoing, OTS concludes that the competitive considerations are consistent with approval.

Capital Distribution Application

The Applications include an application for a capital distribution from KSB to PFSB of $4.6 million. Immediately after the proposed capital distribution, KSB will be merged into the Savings Bank. The Savings Bank will be well capitalized. The Applications indicate that the proposed capital distribution does not violate any prohibition in any statute, regulation, or agreement with OTS or the FDIC. Based on the foregoing, OTS concludes that KSB's proposed capital distribution in connection with the proposed transaction is consistent with approval.

Conclusions

Based on the foregoing analysis, the Applications, and the commitments provided by the parties to the Applications, OTS concludes that the Applications meet the applicable approval criteria, provided that the conditions set forth below are satisfied. Accordingly, the Applications are hereby approved, provided that the following conditions are complied with in a manner satisfactory to the Northeast Regional Director, or his designee (Regional Director):

1. The Applicant, the Savings Bank, PFSB, and KSB must receive all required regulatory approvals and submit copies of all such approvals to the Regional Director prior to consummation;

2. The proposed transaction must be consummated no earlier than 15 calendar days and not later than 120 calendar days from the date of this Order;

3. PFSB must advise each accountholder whose withdrawable accounts would increase above $100,000 as a result of the transaction, or whose uninsured balance would increase as a result of the transaction, of the effect on their insurance coverage no later than 30 days after the effective date, and provide a copy of this notice to the Regional Director;

4. On the business day prior to the date of consummation of the proposed transaction, the chief financial officers of the Applicant, the Savings Bank, PFSB, and KSB, 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 respective entities as disclosed in the Applications. If additional information having an adverse bearing on any feature of the Applications is brought to the attention of the Applicant, the Savings Bank, PFSB, KSB, or the OTS, since the date of the financial statements submitted with the Applications, the transaction must not be consummated unless the information is presented to the Regional Director, and the Regional Director provides prior written non-objection to consummation of the proposed transaction;

5. The Applicant, the Savings Bank, PFSB, and KSB, must advise the Regional Director within 5 calendar days after the effective date of the proposed transaction: (a) of the effective date of the proposed transaction; (b) that the transaction was consummated in accordance with all applicable laws and regulations, the Applications, and this Order; and (c) must provide a reconciliation of the Savings Bank's capital;

6. The Savings Bank must operate within the parameters of its three year business plan. The Applicant and the Savings Bank must submit any proposed major deviations or material changes from the business plan (including those initiated by the Applicant), and in particular, those pertaining to cross-marketing by the Savings Bank and its affiliates, for the prior written non-objection of the Regional Director. The request for change must be submitted no later than 60 calendar days prior to the desired implementation date, with a copy sent to the Ohio Division of Financial Institutions and the FDIC Regional Office;

7. The Savings Bank must submit independent audit reports to the Regional Director for its first three years of operation. These reports must be in compliance with the audit rules set forth at 12 C.F.R. § 562.4;

8. At least 40 percent of the Savings Bank's board of directors must be individuals who are not officers or employees of the Applicant or its affiliates, and who have not otherwise been determined by the Regional Director to lack sufficient independence. At least one member of the Savings Bank's board of directors must be an individual who is not an officer, director or employee of the Applicant or any affiliate and who is not an officer or employee of the Savings Bank, and who has not otherwise been determined by the Regional Director to lack sufficient independence. At least 50 percent of the Savings Bank's audit, investment and trust committees must be directors who are not officers or employees of the Savings Bank, the Applicant or any affiliates and have not otherwise been determined by the Regional Director to lack sufficient independence;

9. A majority of the Savings Bank's board of directors must not be comprised of individuals who are directors or employees of any affiliate of the Savings Bank that engages in securities brokerage, securities dealing, investment company, or investment advisor activities (Securities Affiliate(s));

10. The Savings Bank is prohibited from sharing common officers with any Securities Affiliate unless prior written approval is obtained from the Regional Director, which shall be based on criteria such as regulatory compliance, experience, character, integrity and the ability to perform both duties;

11. Within 30 calendar days after consummation of the proposed transaction, the Savings Bank must develop and submit to the Regional Office for review a functioning oversight program, consisting of a comprehensive audit program, a compliance management program, and a risk management program. The audit program must be

fully implemented within 30 calendar days of the commencement of operations. The compliance management program must be fully implemented within 90 calendar days of commencement of operations. The risk management program must be fully implemented within 180 calendar days of commencement of operations.

a. The audit program should address auditor qualifications, audit scope and method, committee involvement, reporting, and the process for effectuating corrective action;

b. The compliance management program should ensure compliance with applicable laws, regulations, and sound fiduciary principles. It should include, at a minimum: (a) the assignment of specific compliance responsibilities to experienced staff; (b) training for affected staff; (c) routine self-evaluations; (d) periodic compliance audits; and (e) appropriate written policies and procedures;

c. The risk management program should establish criteria to identify, measure, monitor, and control risks within the fiduciary activities;

12. Within 30 calendar days after consummation of the proposed transaction, the Savings Bank must submit to the Regional Director for his review and written non-objection a copy of the disclosure form to be given to customers that will advise them of the differences between FDIC-insured deposit products and uninsured non-deposit investment products. Such disclosure must be in accordance with Interagency Guidelines;

13. The Applicant, its affiliates and the Savings Bank must comply with the anti-tying restrictions of 12 U.S.C. §§ 1464(q) and 1467a(n) and must develop written procedures to effect such compliance. The procedures must be submitted for the review and non-objection of the Regional Director at least 30 calendar days prior to the commencement of the cross-marketing activity;

14. During the first 18 months after consummation of the proposed transaction, any contracts or agreements pertaining to transactions with affiliates, not yet submitted to the OTS for review, must be provided to the Regional Director for his written non-objection at least 30 calendar days prior to their execution and implementation;

15. The service of the proposed officers and directors of the Savings Bank and Applicant is conditioned upon the completion of OTS background checks without disclosure of any adverse information that is inconsistent with this approval pursuant to 12 U.S.C. § 1467a(e) and 12 C.F.R. § 574.7(c); and

16. For two years following the date of consummation of the proposed transaction, the Savings Bank must receive the prior, written non-objection of the Regional Director for any proposed new directors or senior executive officers or any significant change in responsibilities of any senior executive officer.

Any time period set forth herein may be extended for up to 120 calendar days, for good cause, by the Regional Director.

By order of the Director of the Office of Thrift Supervision, or his designee, effective July 9, 2003.

Scott M. Albinson
Managing Director
Office of Supervision