

## OFFICE OF THRIFT SUPERVISION

### Approval of Applications for Permission to Organize a Federal Savings Bank and Holding Company Acquisition

**Order No.:** 2007-48  
**Date:** November 13, 2007  
**Docket Nos.:** H-4407 and 18050

Scottrade Financial Services, Inc., Des Peres, Missouri (Holding Company) and certain related entities (collectively, the Applicants), have applied to the Office of Thrift Supervision (OTS), pursuant to 12 U.S.C. §§ 1464(e) and 1467a(e), and 12 C.F.R. §§ 552.2-1 and 574.3, to organize and to acquire Scottrade Bank, Des Peres, Missouri (Savings Bank). The Applicants have applied to the Federal Deposit Insurance Corporation (FDIC) for deposit insurance under the Deposit Insurance Fund (DIF) for the Savings Bank's deposit accounts.

The Holding Company is a newly formed Delaware-chartered, shell holding company organized for the purpose of acquiring and holding all of the outstanding common stock of the Savings Bank and all of the outstanding stock of Scottrade, Inc. (Brokerage Company). The Brokerage Company is a discount securities brokerage firm that has been in business for over 25 years. The Brokerage Company is headquartered in Des Peres, Missouri, and conducts its business throughout the United States. At the time of the proposed acquisition, all of the Holding Company's common stock will be held in seven trusts (collectively, the Trusts). The Trusts have joined the holding company application.

#### **The Proposed Transaction**

The Applicants propose to establish and to operate a *de novo* federal stock savings bank, the Savings Bank. The Savings Bank's operations will include primarily deposit account products and services offered to customers of the Brokerage Company under a sweep account arrangement through which free credit balances in the customers' brokerage accounts would be swept into deposit accounts at the Savings Bank, and then, back into the respective customer's brokerage account as needed. The Brokerage Company will maintain a money market deposit account and a NOW account at the Savings Bank for the benefit of its customers that elect to participate in the sweep program.

#### **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 savings association 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 background of the Applicants and the proposed officers and directors of the Savings Bank. OTS's review did not reveal any material adverse information regarding the Applicants, or the officers, directors and trustees of the Applicants, or the Savings Bank that would lead OTS to conclude that the Applicants or the proposed officers and directors of the Applicants and the Savings Bank do not have the requisite character and responsibility. Thus, OTS concludes that the character and responsibility of the Applicants, the proposed officers, directors and trustees of the Applicants and the Savings Bank are consistent with approval.

As for the necessity for the Savings Bank in the community, the Savings Bank's home office will be in Des Peres, Missouri, in the St. Louis, Missouri-Illinois Metropolitan Statistical Area, but the Savings Bank will serve a nationwide market. The Holding Company has represented that the Savings Bank will not have a significant presence in St. Louis, Missouri, market. The Savings Bank's products and services will be offered indirectly through the offices of the Brokerage Company. Accordingly, we conclude that the appropriate market for considering this approval criterion is a national market. At June 30, 2006, deposits at all FDIC-insured institutions were \$6.4 trillion, an 8.7 percent (\$516 billion) increase from June 30, 2005. Insured deposits in the national market increased from approximately \$4,003,744 million at June 30, 2000, to approximately \$6,449,532 million at June 30, 2006.

In addition, the population of the United States is estimated to grow from approximately 296.4 million persons in 2005 to approximately 308.9 million persons in 2010, or approximately a 4.2 percent increase in population in five years. The products to be offered by the Savings Bank will provide additional convenience and options to the Brokerage Company's customers nationwide. Accordingly, OTS concludes there is a necessity for the Savings Bank.

With respect to undue injury to properly conducted existing local thrift and home financing institutions, the Savings Bank will not accept deposits through retail locations. The Brokerage Company does not presently offer a sweep program. The Savings Bank does not plan to engage in retail lending. By the end of its third year of operations, the Savings Bank is expected to hold less than 0.12 percent of the deposits held by insured depository institutions in the United States in June 2006. Thus, the Savings Bank's operations should not impact significantly existing local thrift and home financing institutions in the market. 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. OTS is imposing conditions 5 and 6 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. To help ensure that the Savings Bank's probability of usefulness and success is consistent with approval, OTS is also imposing condition 7 below to enable OTS to help confirm that the Savings Bank is being operated properly. In addition, OTS is imposing condition number 9 to help ensure that the Savings Bank's management continues to have the necessary competency to contribute to the Savings Bank's usefulness and success.

The Savings Bank proposes to conduct business with its affiliate. OTS is imposing condition 8, below, to help ensure that the Savings Bank complies with the requirements applicable to transactions with affiliates. In addition, to help ensure the independence of the Savings Bank's board of directors and its audit committee, in light of the proposed affiliate transactions and the sweep arrangement with customers of the Brokerage Company, OTS is imposing condition number 10. Conditions 8 and 10 will help ensure that the Savings Bank is operated safely and soundly and that its probability of usefulness and success are consistent with the standard for approval.

Based on the foregoing analysis, OTS concludes that the probability of the Savings Bank's usefulness and success is consistent with approval, subject to compliance with the conditions.

With respect to the provision of credit for housing, the Savings Bank will not engage directly in mortgage lending, but it will provide credit for housing by purchasing mortgage-backed securities. The purchase of mortgage-backed securities will enable the Savings Bank to 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.

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. The majority of the members of the Savings Bank's board of directors reside in the state in which the Savings Bank will locate its home office. Therefore, OTS concludes that the Savings Bank meets this criterion.

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 proposed board of the Savings Bank consists of two bankers, a foundation president and former broker-dealer manager, a financial and accounting manager, and the president/chief executive officer of the Brokerage Company and the Holding Company, who is experienced in brokerage operations and investment products. OTS concludes that these persons have sufficiently varied business and professional experiences and meet the regulatory standard.

The OTS 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. When the holding company does not have substantial independent economic substance, OTS applies the related business criterion to the holding company's board of directors. The Savings Bank will be a wholly owned subsidiary of the Holding Company, which will have substantial independent economic substance. OTS concludes that this criterion is inapplicable.

With respect to the CRA and OTS's CRA regulations, the Savings Bank's CRA assessment area will consist of the City of St. Louis and St. Louis County. The Savings Bank has requested that it be treated as a wholesale savings association for CRA purposes. Because the Savings Bank will not engage in retail lending, we are approving that request. Based on the Savings Bank's CRA Plan, 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 to OTS regulations in all material respects.

### **Holding Company Application**

Section 10(e)(1)(B) of the Home Owners' Loan Act and the Acquisition of Control Regulations thereunder provide that OTS must approve a proposed acquisition of a savings association by a company, other than a savings and loan holding company, unless OTS finds that the financial and managerial resources and future prospects of the company and association involved would be detrimental to the association or the insurance risk of the DIF. OTS must also consider the impact of the acquisition on competition. Finally, OTS must take into account assessments under the CRA when considering holding company applications.

For the reasons set forth above, OTS concludes that the managerial resources of the Applicants and the Savings Bank are satisfactory, provided the Applicants and the Savings Bank comply with the conditions discussed above.

With regard to financial resources, OTS reviewed the Applicants' financial positions and the Savings Bank's proposed capitalization and business plan. The applications demonstrate that the Applicants will have sufficient resources and that the Savings Bank will meet all of its capital requirements and will be well capitalized throughout the first three years of its operations. Based

on the foregoing, OTS concludes that the financial resources of the Applicants and the Savings Bank are consistent with approval of the holding company application.

Based on the factors considered in the above discussions regarding the managerial and financial resources of the Savings Bank and the Applicants, the character and responsibility of the officers and directors of each entity, and the probability of the Savings Bank's usefulness and success, OTS concludes that the future prospects of the Applicants and the Savings Bank are consistent with approval, and will not pose undue risk to the DIF, subject to the imposition of the above described conditions.

The transaction will not result in any currently operating, unaffiliated depository institutions becoming affiliated. Accordingly, OTS finds no basis for objection to the transaction on anti-competitive grounds.

With respect to the Applicants' performance under the CRA, the Applicants have not been subject to the CRA. OTS did not receive any objections to the transaction. Accordingly, OTS concludes that there is not any basis for objection to the holding company application based on CRA grounds.

## **Conclusion**

Based on the information provided with the applications, OTS's analysis of such information, and the representations and commitments provided by the Applicants and the Savings Bank, OTS concludes that the applications satisfy the applicable approval standards, provided that the following conditions are complied with in a manner satisfactory to the Midwest Regional Director or his designee (Regional Director). Accordingly, the applications are hereby approved, subject to the following conditions:

1. The Applicants and 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 Order;
3. On the business day prior to the date of consummation of the proposed transaction, the chief financial officers of the Holding Company and 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 Holding Company and the Savings Bank, respectively, as disclosed in the applications. If additional information having a material adverse bearing on any feature of the applications is brought to the attention of the Holding Company, the Savings Bank, or 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 written non-objection to consummation of the transaction;

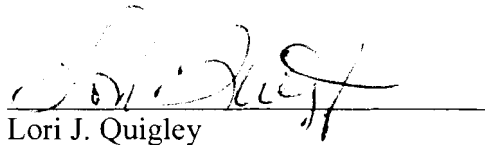
4. The Applicants and the Savings Bank must, within 5 calendar days after the effective date of the proposed transaction: (a) advise the Regional Director in writing of the effective date of the proposed transaction and of the Savings Bank's insurance of accounts; (b) advise the Regional Director in writing that the transaction was consummated in accordance with all applicable laws and regulations, the applications and this Order; and (c) provide a reconciliation of the Savings Bank's capital to the Regional Director;
5. The Savings Bank must comply with the business plan submitted with the applications and must submit any proposed major deviations or material changes from the business plan (including those initiated by the Applicants) for the prior, written non-objection of the Regional Director. The request for change must be submitted a minimum of 60 calendar days before the desired implementation date with a copy sent to the FDIC Regional Office;
6. 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 explanations of any material deviations;
7. 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;
8. During the first eighteen months following the Savings Bank's commencement of operations, any contracts or agreements pertaining to transactions with affiliated persons or related interests not yet submitted to OTS for review, or any material changes to previously submitted contracts, must be provided to the Regional Director, and obtain his written non-objection;
9. For two years following the commencement of operations, the Savings Bank must receive the prior written non-objection of the Regional Director for any proposed new directors or new senior executive officers, or for any significant change in responsibilities of any senior executive officer; and
10. At least 40 percent of the Savings Bank's board of directors must be individuals who are not officers or employees of the Applicants or affiliates thereof, 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 Applicants 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 any audit committee established by the Savings Bank must be directors who are not officers or employees of the Savings Bank, the Applicants or any affiliates, and who have not otherwise been determined by the Regional Director to lack sufficient independence.

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

By order of the Director of the Office of Thrift Supervision, or his designee, effective

November 13, 2007.



Lori J. Quigley  
Managing Director  
Examinations and Supervision - Operations