

OFFICE OF THRIFT SUPERVISION

DENIAL OF APPLICATION FOR PERMISSION TO OPEN AN AGENCY OFFICE

Order No.: 99-65

Date: October 26, 1999

Abacus Federal Savings Bank, New York, New York, has applied to the Office of Thrift Supervision ("OTS"), pursuant to 12 C.F.R. § 545.96(b), to open an agency office in Beijing, China.

The OTS has the authority to deny an agency office application if the proposed activity raises safety and soundness concerns. See 12 U.S.C. § 1463(a). The OTS has considered the applications, as well as the digest by the OTS Northeast Regional Office ("Regional Office"), a legal opinion by the Business Transactions Division, and an analysis by the Office of Examination & Supervision (collectively the "Staff Memoranda"), and has concluded that the application raises safety and soundness concerns.

In sum, the pertinent concerns, each of which provides an independent basis for denial of the application, are: (i) that the applicant has been unwilling or unable to provide all of the information necessary to properly conclude that the proposed operation will be safe and sound; (ii) that the Applicant has not provided information demonstrating that the proposed activities of the agency office are permissible under Chinese law; and (iii) that to the extent Abacus has furnished relevant information, that information leads to the conclusion that opening the proposed agency office is unsafe and unsound.

The concerns expressed in the Staff Memoranda are warranted. Unless an applicant provides complete information about what activities are going to be conducted and how they will be supervised, OTS cannot determine if they will be carried out safely and soundly. Similarly, unless OTS can be assured that the proposed activities are lawful in the host country, OTS is unable to determine whether engaging in those activities may lead to adverse actions against Abacus that could undermine the institution. For example, at least one activity that the applicant has indicated the agency office would engage in - contracting with experts in China - appears to be prohibited by the Chinese government. Because the applicant has not provided complete information about its proposed activities and appropriate assurances that all the proposed agency office operations would be entirely lawful in the host country, the applicant has failed to demonstrate that the operations will be conducted in a safe and sound manner.

In addition, for reasons discussed in the Staff Memoranda, we conclude that, to the extent the applicant has furnished relevant information, the applicant's plan for supervision of the agency office is inconsistent with the safety and soundness of the applicant.

For the foregoing reasons, the OTS has determined that the Application fails to satisfy the

applicable approval criteria. Accordingly, the Application is hereby denied.

By order of the Director of the Office of Thrift Supervision, or her designee, effective October 26, 1999.

A handwritten signature in cursive script, reading "Richard M. Riccobono". The signature is written in black ink and is positioned above the printed name and title.

Richard M. Riccobono
Deputy Director