

OFFICE OF THRIFT SUPERVISION

APPROVAL OF OPERATING SUBSIDIARY APPLICATION

Order No.: 2002-24
Date: June 14, 2002
Docket No.: 8551

Washington Mutual Bank, FA, Stockton, California (Savings Bank) has applied to the Office of Thrift Supervision (OTS), pursuant to 12 U.S.C. § 1828(m) and 12 C.F.R. Part 559, to establish a California-chartered reinsurance company, Washington Mutual Life Insurance Company of California, Irvine, California (Operating Subsidiary), as a wholly owned second-tier operating subsidiary. The Operating Subsidiary is being established to reinsure credit life, credit disability and mortgage life, disability and accidental death insurance on loans originated or serviced by the Savings Bank.

The Operating Subsidiary will reinsure losses on any credit life, credit disability and mortgage life, disability and accidental death insured by the underwriter, with reinsurance stop-loss limits of a percentage limit of the annual written premium, with the excess exposure reverting back to the underwriter. It is contemplated that the underwriter will cede, subject to a reinsurance fee, a percentage of the premiums on the policies reinsured by the Operating Subsidiary for reinsuring the underwriting risk.

A federal savings association may request OTS approval to invest in a lower-tier operating subsidiary if: (1) the operating subsidiary engages only in activities permissible for federal associations to engage in directly; (2) the federal association owns, directly or indirectly, more than 50 percent of the voting shares of the operating subsidiary; and (3) no person or entity other than the federal association exercises operating control over the operating subsidiary.¹

With respect to the specific regulatory criteria, the Savings Bank, through its wholly owned California chartered operating subsidiary, Marion Holdings, Inc., will hold all of the Operating Subsidiary's stock, and we are not aware of any information indicating that the Savings Bank will not have sole operating control over the operating subsidiary. Federal savings associations have authority to reinsure life and disability insurance underwritten in connection with loans that the association originates.²

However, the Insurance Company has requested the authority to extend the reinsurance to loans serviced by the Savings Bank. OTS has opined that a service corporation of a federal association may reinsure private mortgage insurance issued by third parties for loans not only originated, but also purchased by the federal association, its subsidiaries, or its affiliates as "reasonably related to the activities of financial institutions."³ Further, OCC regulations permit national banks to reinsure mortgage insurance on loans originated, purchased, or serviced by the

¹ 12 C.F.R. §§ 559.2, 559.3(c)(1) and (e)(1) (2002).

² See Op. C.C. (January 10, 1995).

³ See Op.C.C. (November 2, 1998).

bank, its subsidiaries, or its affiliates.⁴ Finally, reinsurance of such loans would be consistent with the standards used to analyze and permit federal savings associations to issue mortgage loan performance guarantees and to participate in a reciprocal mortgage guaranty reinsurance.⁵ There appears to be no legal prohibition to extending the authority to serviced loans. Even if such activity, i.e. extending reinsurance to loans serviced by the Savings Bank, is permissible under HOLA, however, the activity may nevertheless be restricted or prohibited by OTS on grounds of safety and soundness.⁶ The Regional Office has noted that extending reinsurance to loans serviced by the Savings Bank does not materially increase any risk to the Savings Bank insofar as those loans are currently self-insured. Nor does the Regional Office object on supervisory grounds.

In addition, the OTS may, at any time, limit a savings association's investment in operating subsidiaries, or may limit or refuse to permit any activities of an operating subsidiary, for supervisory, legal, or safety and soundness reasons.⁷ Based on the application, OTS concludes that the establishment of the operating subsidiary is not objectionable on safety and soundness or supervisory grounds. However, in order to ensure that the continued operation of the operating subsidiary does not create safety and soundness or supervisory concerns, OTS is conditioning its approval of the application.

For the reasons set forth above, OTS has determined that the application satisfies all applicable approval standards and criteria, provided that the following conditions are complied with in a manner satisfactory to the West Regional Director, or his designee (Regional Director). Accordingly, the application is hereby approved, subject to the following conditions:

1. The Operating Subsidiary must conduct its activities in accordance with the representations made in the application, and obtain the OTS' prior written clearance for any material deviation from any of the activities, facts, or representations described in the application;
2. The Operating Subsidiary's initial capitalization shall be limited to no more than \$15 million, in cash or cash equivalents, and, that prior to downstreaming any assets beyond the initial capitalization, the Savings Bank shall obtain the OTS' prior written approval;
3. The Savings Bank must establish the Operating Subsidiary within 120 days of the date of this approval, unless an extension is granted by the Regional Director;
4. The Operating Subsidiary must make available to OTS such information as OTS deems necessary to monitor the Operating Subsidiary's activities and the effect of those activities on the safe and sound operation of the Savings Bank;

⁴ 12 C.F.R. § 5.34(v)(Q).

⁵ See Op.C.C. (October 2, 1998) and Op.C.C. (March 11, 1999).

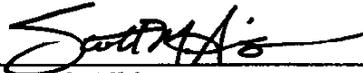
⁶ See Op. C.C. (January 10, 1995).

⁷ 12 C.F.R. § 559.1(a) (2002).

5. The Operating Subsidiary shall provide OTS with copies of all dividend requests filed with the California Department of Insurance, and correspondence relating to such dividend requests, including, but not limited to, a copy of each approval or denial letter;
6. The Savings Bank must establish and document internal controls that demonstrate adequate oversight of the investments in the Operating Subsidiary, and document the institution of such controls to the Regional Director prior to the Operating Subsidiary opening for business; and
7. The Savings Bank must obtain all required regulatory approvals for the proposed transaction and submit copies of all such approvals to the Regional Director prior to consummation of the proposed transaction.

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 June 14, 2002.



Scott M. Albinson
Managing Director
Office of Supervision