

OFFICE OF THRIFT SUPERVISION

Approval of Conversion of a State Savings Bank to a Federal Savings Bank, Holding Company Applications, Fiduciary Powers, and Related Filings

Order No.: 2004-38
Date: July 23, 2004
Docket Nos.: H-4082, H-4083, and
17978

Savings Institute, Willimantic, Connecticut (State Bank) has filed an application to convert from a Connecticut-chartered savings bank to a federal savings bank, to be named Savings Institute Bank and Trust Company (Savings Bank), pursuant to 12 C.F.R. § 552.2-6. SI Bancorp, Inc. (State Holding Company), the present state-chartered mutual holding company of the State Bank, has filed applications seeking approval of the steps of a multi-step transaction in which a federal mutual holding company, named SI Bancorp, MHC (Mutual Holding Company), will become the Savings Bank's mutual holding company. The application further requests approval of the formation of a federally chartered subsidiary holding company, to be named SI Financial Group, Inc. (Stock Holding Company), and the Stock Holding Company's acquisition of all of the outstanding stock of the Savings Bank. The Mutual Holding Company and the Stock Holding Company have requested approval under 12 U.S.C. § 1467a(e) and 12 C.F.R. §§ 574.3 and 575.14 to acquire the Savings Bank. The Savings Bank has applied to engage in trust powers. In addition, the Savings Bank has filed a notice with OTS, pursuant to 12 C.F.R. Part 559 and 12 C.F.R. § 575.11, for two of its three subsidiaries to become operating subsidiaries and for its third subsidiary to become a service corporation (Notice). The State Bank has an existing charitable foundation, Savings Institute Foundation, Inc. (Foundation), which will continue to operate following the consummation of the transaction.

The Applications

The State Bank proposes to convert directly to a federal savings bank. The applicants propose to form the Mutual Holding Company and then have the State Holding Company merge into the Mutual Holding Company with the Mutual Holding Company as the surviving entity. The applicants also propose to have the Stock Holding Company chartered and then have the Mutual Holding Company exchange all of the Savings Bank's outstanding stock for the all of the stock of the Stock Holding Company.

As a result of these transactions, the Savings Bank will become the wholly owned subsidiary of the Stock Holding Company, and the Stock Holding Company will become the wholly owned subsidiary of the Mutual Holding Company.

Conversion of the State Bank to a Federal Savings Bank

Section 552.2-6 of OTS's regulations provides that, with OTS approval, any stock depository institution that is, or is eligible to become, a member of a Federal Home Loan Bank, may convert to a federal stock savings association, provided that the depository institution, at the time of conversion, has deposits insured by the Federal Deposit Insurance Corporation; and the depository institution, in accomplishing the conversion, complies with all applicable statutes and regulations. The resulting federal savings association must comply within the time prescribed by OTS to the requirements of section 5(c) of the Home Owners' Loan Act (HOLA).

The proposed conversion of the State Bank conforms to the requirements of section 552.2-6. The State Bank is a state-chartered, Bank Insurance Fund (BIF)-insured savings bank, with membership in a Federal Home Loan Bank, and its assets conform to the section 5(c) requirements, subject to the imposition of a condition of approval relating to the divestiture of certain impermissible investments.

Section 5(e) of the HOLA provides that OTS may grant a federal savings association charter only if OTS finds that the criteria set forth in sections 5(e)(1) through 5(e)(4) of the HOLA have been satisfied. OTS's regulations include the same standards, with the additional requirement that OTS consider whether the association will promote credit for housing consistent with the safe and sound operation of a federal savings association. In addition, OTS's Community Reinvestment Act (CRA) regulations provide that an applicant for a federal ~~thrift~~ charter must submit with its application a description of how it will meet its CRA objectives and that OTS may deny or condition approval of the application on CRA grounds.

With respect to the applicants' character and responsibility, the first criterion contained in HOLA section 5(e), the proposed officers and directors of the Savings Bank are the officers and directors of the State Bank. OTS has considered the State Bank's supervisory history, and materials submitted with the application. OTS concludes that the applicants' character and responsibility are consistent with approval.

As for the two section 5(e) standards regarding the necessity for the Savings Bank in the community, and undue injury to properly conducted existing local thrift and home financing institutions, the Savings Bank will be continuing the State Bank's current business activities. Accordingly, OTS concludes that there is a necessity in the community for the Savings Bank, and that the existence of the federal savings bank will not result in undue injury to existing institutions.

Based on the Savings Bank's business plan, historical data on the State Bank, the Savings Bank's proposed capital levels, and competence of management, OTS has concluded that the remaining section 5(e) requirement has been met in that there is a reasonable probability of the Savings Bank's usefulness and success.

Based on the Savings Bank's plans to engage in mortgage lending, ~~as~~ well as the Savings Bank's business plan and management experience, OTS concludes that the Savings Bank's role in providing credit for housing consistent with safe and sound operations of a federal association is consistent with approval.

OTS reviewed the Savings Bank's plan for compliance with the CRA and the results of the State Bank's most recent compliance examination. OTS received no comments objecting to the application on CRA grounds. To increase its community development efforts, the State ~~Bank~~ previously had established the Foundation. To ensure that the administration and activities of the Foundation are consistent with foundations established by federal savings associations, OTS is imposing a condition of approval requiring the Foundation, the Savings Bank, the Stock Holding Company and the Mutual Holding Company to abide by the same requirements if the Foundation acquires stock in the Stock Holding Company. Accordingly, OTS concludes that approval of the charter conversion is consistent with the CRA.

The Savings Bank's proposed charters and bylaws are consistent with the charter and bylaws for a federal stock association.

Establishment of the Mutual Holding Company and the Stock Holding Company

The proposed structure of the transaction, including the formation of the Mutual Holding Company and the Stock Holding Company, and the merger of the State Holding Company into the Mutual Holding Company, is consistent with the Mutual Holding Company regulations. The merger of the State Holding Company into the Mutual Holding Company is contemplated under 12 C.F.R. § 575.10(a)(3). The Mutual Holding Company and the Stock Holding Company will have federal charters, ~~as~~ required by the OTS Mutual Holding Company regulations. The Mutual Holding Company's charter is consistent with 12 C.F.R. § 575.9, and the Stock Holding Company's proposed federal charter is consistent with 12 C.F.R. § 575.14(e). The Stock Holding Company proposes to hold all of the common stock of the Savings Bank, ~~as~~ required under 12 C.F.R. § 575.14(a), and the Mutual Holding Company will hold all the stock of the Stock Holding Company.

Holding Company Applications

Section 10(e)(2) and the Control Regulations provide that in reviewing the proposed acquisition of the Savings Bank by the Mutual Holding Company and the Stock Holding Company, OTS must consider the managerial and financial resources and future prospects of the companies and the savings association involved, the effect of the acquisition on the association, the insurance risk to the BIF, and the convenience and needs of the community to be served. OTS also must consider the impact of any acquisition on competition. Further, 12 C.F.R. § 563e.29 requires that OTS *take* into account assessments under the CRA when approving holding company acquisitions.

The Savings **Bank's**, the Mutual Holding Company's, and the Stock Holding Company's boards of directors will consist of the present directors of the State Bank and the State Holding Company. The executive officers of the Savings Bank, the Stock Holding Company and the Mutual Holding Company will consist of the executive officers of the State Bank and the State Holding Company. Therefore, for the reasons set forth in the discussion of the State Bank's charter conversion, OTS concludes that the managerial resources of the holding company applicants and the Savings Bank are consistent with approval.

As for financial resources, the State Bank's core, tier 1 risk-based, and total risk-based capital ratios were 6.88 percent, 11.60 percent, and 12.58 percent, respectively, as of March 31, 2004. The Savings Bank will be well capitalized upon consummation of the transaction. The only activities of the Mutual Holding Company will be its majority ownership of the stock of the Stock Holding Company, and the only activity of the Stock Holding Company will be ownership of the stock of the Savings Bank. Accordingly, OTS concludes that the financial resources of the applicants, and the Savings Bank are consistent with approval.

After considering the financial and managerial resources of the applicants and the Savings Bank, and the Savings Bank's business plan, OTS concludes that the future prospects of the applicants and the Savings Bank, and risks to the **BIF** are consistent with approval.

The proposed acquisition will not cause the Savings Bank to become affiliated with any other operating depository institution. Accordingly, the transaction is not objectionable on competitive grounds.

As for the CRA, and convenience and needs of the community, the State Bank currently has a Satisfactory CRA rating. The Mutual Holding Company and the Stock Holding Company, as newly formed entities, have no CRA experience. OTS **has** received no comments objecting to the proposed transaction. The Savings Bank will continue to provide the services now provided by the State Bank. Accordingly, OTS concludes that approval of the holding company acquisitions is consistent with the CRA and with the convenience and needs standard.

Operating **Subsidiaries**

A federal savings association generally may invest in an operating subsidiary if: (1) the 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. In addition, OTS may, at any time, limit a savings association's investment in operating subsidiaries, or may limit or refuse to permit any activities or an operating subsidiary, for supervisory, legal, or safety and soundness reasons.

The State Bank's subsidiaries engage in activities that are permissible for a federal savings association. The Savings Bank will own, directly or indirectly, more than 50 percent of the voting shares of each proposed operating subsidiary. In addition, no party other than the Savings Bank will exercise effective control over any of the proposed operating subsidiaries. With regard to supervisory considerations, OTS has no supervisory objections to the establishment of the operating subsidiaries. In addition, the subsidiaries are engaged in activities that are permissible for non-savings association subsidiaries of a mutual holding company under 12 C.F.R. §§ 575.11(a) and 575.10(a)(6). OTS has concluded that savings association investments of the type contemplated by the Savings Bank, where the Mutual Holding Company and the Stock Holding Company will not hold interests in the subsidiaries, are permitted under 12 C.F.R. § 575.10(a)(6)(ii).

Service Corporation

In considering whether a proposed investment in a service corporation by a federal savings association is permissible, OTS must consider whether the activity is permissible, whether the amount of the investment is permissible, the state of incorporation of the proposed service corporation, and the nature of the investors, and whether there are any supervisory or safety and soundness reasons to limit or to refuse to permit the investment.

The Savings Bank will wholly own the proposed service corporation. The Savings Bank's investment in the service corporation will comply with the investment limitations of 12 C.F.R. § 559.5(a). The service corporation is incorporated in Connecticut, therefore, it is chartered in the same state as the Savings Bank. Therefore, the investment will meet the ownership limitations of the HOLA and OTS's Subordinate Organization regulations. The State Bank's subsidiary engages in activities that are permissible for a federal savings association, but for certain activities engaged in by a firm in which it has invested. The service corporation has as an asset an investment in a full service broker-dealer (Broker) that engages in certain activities that are not pre-approved for service corporations of federal savings associations. Therefore, OTS is imposing a condition of approval providing that the investment in Broker must be divested or an application filed and OTS approval obtained for the service corporation to engage in those otherwise impermissible activities. The service corporation does not raise other safety and soundness concerns.

Trust Application

Section 5(n) of the HOLA authorizes OTS to grant federal savings associations the power to act as trustee, executor, administrator, guardian or in any other fiduciary capacity permitted for State banks, trust companies, or other corporations which compete with such associations in the state where the federal association is located.

OTS regulations set forth the factors that OTS considers in reviewing trust powers applications: (1) the association's financial condition; (2) the association's capital and whether that capital is sufficient under the circumstances; (3) the association's overall performance; (4) the fiduciary powers the association proposes to exercise; (5) the association's proposed supervision of those powers; (6) the availability of legal counsel; (7) the needs of the community to be served; and (8) any other facts or circumstances that OTS considers proper.

With respect to the financial condition, capital sufficiency and performance of the Savings Bank, OTS concludes that the Savings Bank will meet all regulatory capital requirements, will be well capitalized, and that the Savings Bank's proposed capital levels are acceptable. The HOLA requires that the Savings Bank meet the capital requirements applicable to Connecticut-chartered trust companies, and OTS concludes that the Savings Bank's proposed capital level exceeds the Connecticut requirements.

Based on the State Bank's financial performance to date and OTS review of the business plan, OTS concludes that the Savings Bank's financial condition and capital will be sufficient, and that the Savings Bank's overall financial condition is consistent with approval.

As to the fiduciary services to be offered, which include personal trust powers, certain employee benefit trust powers, and custodial activities for investment management agency accounts, OTS concludes that the Savings Bank's proposed trust activities are authorized by Connecticut law for Connecticut-chartered corporate fiduciaries. Thus, those powers may be exercised by the Savings Bank.

The Savings Bank will supervise its trust activities using methods currently used to supervise the Savings Bank's operations and the Savings Bank's management will not change as a result of the charter conversion. Accordingly, OTS concludes that the Savings Bank's management's supervision of trust powers will be consistent with approval, subject to the imposition of a condition of approval requiring the adoption of risk management and compliance programs specifically for the trust operations. In addition, the Savings Bank will retain experienced trust counsel to advise it with respect to fiduciary matters.

For the reasons discussed in connection with our review of the application for a federal charter, OTS concludes that there is need in the community for the Savings Bank's trust services. OTS has not identified any other facts and circumstances relevant to the trust application, which should be considered in approving the application.

Related Application and Other Matters

The State Bank has investments in general corporate equities that are impermissible for a federal savings bank. OTS is imposing a condition regarding the divestiture of the investments.

In addition, the applicants have filed a notification pursuant to 12 C.F.R. § 550.300(b) to continue the State Bank's transactional Internet site. OTS has reviewed the notification from a safety and soundness perspective, and has no objection to the notification.

Conclusions

Based on the foregoing analysis, OTS concludes that each of the foregoing applications meets the applicable approval criteria. Accordingly, the foregoing 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 State Bank, the State Holding Company, the **Mtual** Holding Company, the Stock Holding Company and the Savings Bank must receive all required regulatory, corporator, depositor, and shareholder approvals prior to consummation of the reorganization and acquisition with copies of all such approvals supplied to the Regional Director;
2. The proposed transactions must be consummated within 120 calendar days after the date of **this** Order;
3. On the business day prior to the date of consummation of the proposed transactions, the chief financial officers of the State Holding Company and the State Bank must certify in writing to the Regional Director that no material adverse events or material adverse changes have occurred with respect to the financial condition or operations of the State Holding Company or the State Bank, respectively, since the date of the financial statements submitted with the applications. If additional information having a material adverse bearing on any feature of the applications is brought to the attention of the State Holding Company, the State 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. No later than five calendar days from the date of consummation of the reorganization and acquisition, the Mutual Holding Company, the Stock Holding Company, and the Savings Bank must file with the Regional Director a certification by legal counsel stating the effective date of the reorganization and acquisition, the exact number of shares of stock of the Savings Bank acquired by the Stock Holding Company, the exact number of shares of the Stock Holding Company acquired by the Mutual Holding Company, and that the reorganization was consummated in accordance with all applicable laws and regulations, the applications, the

Agreement and Plan of Reorganization, all representations made by the State Bank, and the State Holding Company and its counsel in connection with OTS's review of the proposed transactions, and this Order;

5. No later than **180** calendar days following the date of consummation of the proposed transaction, the Savings Bank must establish fully functioning compliance and risk management programs that specifically establish controls to govern the risks within the trust department. These programs will require the Savings Bank to, at a minimum, adopt a formal compliance policy, name a qualified fiduciary Compliance Officer, and establish risk management assessment practices;
6. No later than two years following the date of consummation of the proposed transaction, the Savings Bank must (i) divest all impermissible investments or activities; and (ii) either divest or seek and obtain OTS approval to retain the service corporation's investment in Broker;
7. If the Foundation presently owns, or in the future, receives or acquires, any shares of the Stock Holding Company, or its successors, then the Foundation, the Savings Bank, the Stock Holding Company, and the Mutual Holding Company, or their successors, will be subject to the provisions of **12 C.F.R. §§ 563b.510, 563b.565(a) and (b), and 563b.575**, as if the Foundation were established at the time of a conversion of the Savings Bank from a mutual to a stock savings bank.

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

By order of the Director of the Office of Thrift Supervision, or his designee,
effective July 23, 2004.



Scott M. Albinson
Managing Director
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and Consumer Protection