

## OFFICE OF THRIFT SUPERVISION

### Approval of Application for Authority to Operate A Full Service Savings Bank

**Order No.:** 2006-18

**Date:** April 17, 2006

**OTS No.** 14970

Nationwide Mutual Insurance Company, Nationwide Mutual Fire Insurance Company, Nationwide Corporation and Nationwide Financial Services, Inc., Columbus, Ohio (collectively the Holding Companies) and Nationwide Trust Company, FSB, Columbus, Ohio (Savings Bank) have applied for approval of the Office of Thrift Supervision (OTS) pursuant to Condition No. 7 of OTS Order No. 98-50 (May 13, 1998) (Order), for permission to expand the activities the Savings Bank is permitted to engage in, from those previously approved in the Order (Application).

The Order provides that OTS will consider any such application under the standards of section 5(e) of the Home Owners' Loan Act (HOLA) and the OTS regulations thereunder, and under the Community Reinvestment Act (CRA) and OTS regulations thereunder. OTS has considered the Application under the standards set forth in 12 U.S.C. § 1464(e) and 12 C.F.R. §§ 543.3 and 552.2-1. OTS also has considered the Application under the CRA, 12 U.S.C. §§ 2901 *et seq.*, and the OTS regulations thereunder, 12 C.F.R. Part 563e. In addition, OTS has considered the submissions made by the Holding Companies and the Savings Bank.

In the proposed transaction, the Holding Companies will contribute additional capital to the Savings Bank. The Savings Bank will acquire certain assets from its affiliates and become a full service savings bank offering both deposit and loan products in addition to trust services.

Section 5(e) of HOLA provides that OTS may grant a federal savings association charter only: (1) to persons of good character and responsibility; (2) if, in OTS' judgment, a necessity exists for such association in the community to be served; (3) if there is a reasonable probability for the association's usefulness and success; and (4) if the association can be established without undue injury to properly conducted existing local thrift and home financing institutions. In addition, OTS regulations provide that it must consider whether the association will promote credit for housing consistent with the safe and sound operation of a federal savings association. OTS' CRA regulations provide for OTS to take into account an applicant's description of how it will meet CRA objectives when considering an application for a savings association charter. Furthermore, OTS regulations provide for it to consider the amount of initial capital and the residence and composition of the savings association's board of directors.

With respect to character and responsibility, OTS is familiar with the management of the Holding Companies and the standard background checks have not revealed any adverse information with respect to the Holding Companies' managements, or the proposed senior officers and directors of the Savings Bank. However, not all background checks are complete and two prospective senior officers of the Savings Bank have not yet been named. Therefore, Conditions four and five are being imposed to ensure that this standard has been met. In sum, subject to the recommended conditions, a review of the relevant information warrants our conclusion that the character and responsibility of the organizers of the Savings Bank are consistent with approval of the Application.

With respect to the necessity for the Savings Bank, the Savings Bank will initially conduct its deposit business in the Columbus Metropolitan Statistical Area (MSA), and will also solicit deposits over the internet, although the latter are projected to be a very small percentage of deposits for the first three years of operations. Aggregate deposits in the MSA increased from \$20.9 billion to \$28.8 billion between June 2000 and June 2005. Thus, we conclude that there is a necessity in the community for the Savings Bank.

With respect to undue injury to local thrift and home financing institutions, the Savings Bank proposes to have deposits of only \$1.0 billion from customers located in the MSA in its third year of operations, which will amount to only 3.0 percent of the June 30, 2005, deposits in the MSA. In addition, no one opposed the Application in response to the public notice. Therefore, we conclude that the Savings Bank will not cause undue injury to local thrift and home financing institutions in the geographic area where its customers will be located.

With respect to the probability of the Savings Bank's usefulness and success, the Savings Bank will be well capitalized. The Savings Bank's business plan projects that it will remain well capitalized throughout the three-year duration of the plan and will operate profitably in its first year of operations. The Savings Bank's directors and management have the requisite experience. Conditions six, seven, eight and twelve, below, are intended to ensure that the Savings Bank abides by regulatory restrictions and maintains safe and sound operations by requiring reports, appropriate policies and supervision of cross marketing activities, and requiring a certification regarding compliance with the Real Estate Settlement Procedures Act (RESPA) for certain referral fees. Because the Savings Bank will be entering into new activities as a full service Savings Bank, we are imposing Conditions nine and ten. Those conditions are intended to ensure that the new operations are effectively supervised and that the Savings Bank operates safely and soundly.

In addition, because the Savings Bank is expected to conduct a portion of its business with its affiliates, approval of the application will be subject to Condition eleven. The condition is intended to provide that the Savings Bank's board of directors has members with sufficient independence to ensure that the Savings Bank oversees its operations appropriately and operates safely and soundly.

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We conclude that there is a reasonable probability of the Savings Bank's usefulness and success, provided that the Savings Bank complies with the conditions set forth below.

With respect to promotion of credit for housing consistent with the safe and sound operation of a federal savings association, the Savings Bank proposes to extend credit for housing, initially by acquiring mortgage loans from an affiliate. Home equity and first mortgage loans are expected to account for a significant percentage of the Savings Bank's assets. In addition, the Savings Bank is projected to meet its Qualified Thrift Lender requirements. As discussed above, the Savings Bank's management is competent and should be able to conduct lending appropriately. Accordingly, we conclude that this approval criterion has been satisfied.

With respect to the CRA and OTS' CRA regulations, the Savings Bank has not been subject to the CRA and OTS received no public comments objecting to the Application. The Savings Bank's CRA assessment area will be the MSA, which is consistent with OTS' CRA regulations. We find that the Savings Bank has satisfactorily demonstrated how it will meet its CRA objectives.

The Savings Bank has adopted a charter and bylaws that are consistent with OTS regulations. The Savings Bank's capitalization will exceed the minimum regulatory requirement. In addition, because the Savings Bank's board of directors will be made up of persons with varied backgrounds, a majority of its members live and/or work in Ohio, and the Holding Companies have substantial independent economic substance, we conclude that the proposed composition of the Savings Bank's board of directors complies with 12 C.F.R. § 543.3(d).

Based on the foregoing analysis, OTS concludes that the Application meets the applicable approval criteria, and is 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 proposed transaction must be consummated within 120 calendar days from the date of this Order;
2. On the business day prior to the consummation of the proposed transaction, the chief financial officers of the Holding Companies 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 Companies and the Savings Bank as disclosed in the Application. If additional information having a material adverse bearing on any feature of the Application is brought to the attention of the Holding Companies, the Savings Bank or OTS since the date of the financial statements submitted with the Application, 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;

3. The Holding Companies and the Savings Bank must advise the Regional Director in writing within 5 calendar days after the effective date of the proposed transaction: (a) of the effective date of the transaction; (b) that the transaction was consummated in accordance with all applicable laws and regulations, the Application, and this Order;
  4. At least 30 calendar days prior to commencing operations, other than trust operations, the Savings Bank must identify the proposed Chief Credit Risk and Compliance Officer and Chief Marketing Officer, and submit his or her biographical and financial report, Applicant Certification, and fingerprint card to the Regional Office, for the prior written non-objection of the Regional Director;
  5. The proposed officers and directors for whom background checks are in process will promptly resign if the Regional Director objects to their service based on information developed in the respective background checks;
  6. At least 30 calendar days prior to consummating the proposed transaction, the Savings Bank must submit to the Regional Director a report identifying providers to whom activities are to be outsourced. During the three years after consummating the proposed transaction, the Savings Bank must notify the Regional Director of any significant changes in outsourcing as represented in that report, at least 30 calendar days prior to such change;
  7. At least 30 calendar days prior to consummating the proposed transaction, the Savings Bank must develop and submit to the Regional Director for his review and written non-objection the final board approved Compliance Policy, as well as policies, procedures and internal controls for Fair Lending;
  8. The Savings Bank must obtain written non-objection from the Regional Director prior to commencing the cross-marketing of the products of affiliates and prior to engaging the Holding Companies' brokers or agents to market the Savings Bank's products, except for the affinity credit card program described in the business plan;
  9. The Savings Bank must operate within the parameters of its three-year business plan. The Savings Bank must submit any proposed major deviations or material changes from the plan, including any proposal to open branch offices, 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;
  10. For three years following consummation of the proposed transaction, 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 an explanation of any deviations;
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11. At least 40 percent of the Savings Bank's board of directors must be individuals who are not officers or employees of the Holding Companies or their affiliates and who have not otherwise been determined by the Regional Director to lack sufficient independence; and 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 Holding Companies or their affiliates and who is not an officer or employee of the Savings Bank, and has not otherwise been determined by the Regional Director to lack sufficient independence. At least 50 percent of the members of any audit and investment committee established by the Savings Bank must be directors who are not officers or employees of the Savings Bank, the Holding Companies or their affiliates and have not otherwise been determined by the Regional Director to lack sufficient independence; and
12. The Savings Bank must provide a certification to the Regional Director that the proposed referral fees comply with section 8 of RESPA and the regulations issued thereunder.

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 April 17, 2006.

  
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Scott M. Albinson  
Managing Director  
Office of Examinations, Supervision  
and Consumer Protection