

OFFICE OF THRIFT SUPERVISION
Approval of Applications for Permission to
Organize a Federal Savings Bank and
Holding Company Acquisition

Order No.: 2008-09
Date: April 14, 2008
Docket Nos: H-4476, 18097

Perimeter First Bancshares, Inc., Alpharetta, Georgia (Holding Company) has applied for approval of 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, for permission to organize and acquire Perimeter First Bank, Alpharetta, Georgia (Savings Bank) (collectively, the Applications).

The Proposed Transaction

In the proposed transaction, the Holding Company will form the Savings Bank as a wholly owned direct subsidiary. The Holding Company is in the process of selling its common stock in a private placement offering. The Savings Bank has applied to the Federal Deposit Insurance Corporation (FDIC) for insurance of the Savings Bank's deposits.

Permission to Organize Application

OTS may grant a federal savings association charter only: (1) to persons of good character and responsibility; (2) if, in OTS's 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 must consider whether the association will promote credit for housing consistent with the safe and sound operation of a federal savings association.

Also, OTS's regulation regarding the establishment of de novo federal savings associations sets forth standards regarding: (i) initial capitalization of the federal savings association; and (ii) 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.

With respect to character and responsibility, the Applications and OTS's background checks did not disclose any information regarding the directors or officers of the Savings Bank or the Holding Company that would be inconsistent with approval, and indicated that the

members of the Savings Bank's and the Holding Company's proposed boards of directors possess sufficient experience in the operations of financial institutions and various other business endeavors. The Holding Company is a newly formed shell corporation that will be managed by persons who will also be management officials of the Savings Bank. We conclude that the character and responsibility of the directors and officers of the Savings Bank and the Holding Company are consistent with approval.

With respect to the necessity for the Savings Bank, the Savings Bank will engage in deposit and lending activities. The Savings Bank will focus its operations in the greater Atlanta Metropolitan area, consisting of Cobb, Dekalb, Fulton and Gwinnett Counties, Georgia. Insured deposits in the four-county area increased from \$82.6 billion to \$84.5 billion between June 2006 and June 2007. The population of the four-county area has grown 2.6 percent from 2000 to 2006, and is projected to continue to grow. Based on the foregoing, OTS concludes 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 approximately \$148 million in its third year of operations, which equals only 0.175 percent of deposits in the four-county area, based on June 30, 2007, deposits. In addition, no one submitted comments objecting to the application. Therefore, OTS concludes that the Savings Bank will not have an undue adverse impact on 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 that it will operate profitably by its second year of operations. The Savings Bank's directors and management are experienced bankers and business owners. Several of the proposed directors have extensive experience with Small Business Association lending, which will be a component of the Savings Bank's lending. Conditions five through seven, below, are intended to ensure the safe and sound operations of the Savings Bank by requiring reports for the first three years of operations and compliance with an approved business plan. OTS concludes that the probability of the Savings Bank's usefulness and success standard is met, 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 will extend credit for housing within its market area. 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, OTS concludes that this approval criterion has been satisfied.

With respect to the CRA and OTS's CRA regulations, OTS received no comments objecting to the Application. The Savings Bank's proposed CRA assessment area is consistent

with OTS's CRA regulations. OTS concludes that the Savings Bank has satisfactorily demonstrated how it will meet its CRA objectives.

The Savings Bank's initial capitalization will exceed the minimum regulatory requirement. In addition, a majority of the Savings Bank's board of directors live or work in Georgia. The Savings Bank's board of directors will include individuals with varied backgrounds in banking, and other financial endeavors. Section 543.3(d)(2) of the OTS regulations also requires that, except in the case of a *de novo* association that is wholly owned by a holding company, no more than one-third of the board of directors may be in closely related businesses. Where a *de novo* association is owned by a holding company that does not have substantial independent economic substance, as here, the above standard is applied to the board of the holding company. In this case, only two of the eleven proposed directors on the Savings Bank's board and only two of the twelve proposed directors on the Holding Company's board are in closely related businesses. OTS concludes that the proposed composition of the boards of directors complies with 12 C.F.R. § 543.3(d).

Holding Company Application

Section 10(e)(1)(B) of the Home Owners' Loan Act and the OTS Acquisition of Control Regulations provide that OTS must approve a holding company application seeking permission to acquire one savings association by a company other than a savings and loan holding company unless OTS finds the financial and managerial resources and future prospects of the company and association involved to be such that the acquisition would be detrimental to the savings association or to the insurance risk of the Deposit Insurance Fund. Also, OTS must consider the impact of any acquisition on competition.¹ Further, 12 C.F.R. § 563e.29(a) requires that OTS take into account assessments under the CRA when approving savings and loan holding company acquisitions.

For the reasons set forth above, OTS concludes that the managerial resources of the Holding Company and the Savings Bank are satisfactory. One of the proposed managers at the Savings Bank was subject to a presumptive disqualifier pursuant to 12 C.F.R. § 574.7(g)(1)(iii) because of his prior association with a savings association that was placed into receivership. However, OTS has determined that he was not responsible for the actions that led to the receivership and that, therefore, the presumption has been adequately rebutted. Accordingly, OTS concludes that the managerial resources of the Savings Bank and the Holding Company are consistent with approval.

With regard to financial resources, OTS reviewed the financial resources of the Holding Company, and the Savings Bank's proposed capitalization and business plan. The Applications project that the Savings Bank will meet all of its capital requirements and should be profitable by its second year of operations, and that it will remain well capitalized throughout its first three

¹ 12 U.S.C. § 1467a(e)(2) and 12 C.F.R. § 574.7(c)(2) (2007).

years of operations. Based on the foregoing, OTS concludes that the financial resources of the Holding Company and the Savings Bank are consistent with approval.

With regard to future prospects, in connection with the private placement, OTS is including condition eight. This condition is included to ensure that shareholders comply with applicable regulatory requirements and that OTS receives all required information. Based on the discussions above regarding the probability of the Savings Bank's usefulness and success, the character and responsibility of the organizers of the Savings Bank, and the financial and managerial resources of the Holding Company and the Savings Bank, and the inclusion of the conditions set forth below, which are intended to ensure that the future prospects of the Holding Company and the Savings Bank are consistent with approval, OTS concludes that this approval criterion has been satisfied.

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 Holding Company's performance under the CRA, the Holding Company has not been subject to the CRA. Accordingly, OTS concludes that there is not any basis for objection to the holding company application based on CRA grounds.

Conclusion

Based on the foregoing analysis, pursuant to delegated authority, OTS concludes that the Applications meet the applicable approval criteria, and hereby approves the Applications, provided that the following conditions are complied with in a manner satisfactory to the Southeast Regional Director, or his designee (Regional Director):

1. The Savings Bank must receive all required regulatory approvals and submit copies of all such approvals to the Regional Director prior to consummation of the proposed transaction;
2. The proposed transaction must be consummated within 120 calendar days from the date of this letter;
3. On the business day prior to the consummation of the proposed transaction, the chief financial officers of the Savings Bank and the Holding Company 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 Savings Bank or the Holding Company 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 Savings Bank, the Holding Company 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;

4. 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 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 letter; and (c) provide a reconciliation of the Savings Bank's capital to the Regional Director;
5. 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;
6. 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 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 with a copy sent to the FDIC Regional Office;
7. For three years following 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 an explanation of any deviations; and
8. Within 30 calendar days after commencing operations, the Holding Company must submit a report to the Regional Director consisting of a list of shareholders, including names, addresses, number of shares owned and the percentage of shares owned, and any relationships of individuals presumed to be acting in concert disclosed.

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 14, 2008.


Lori J. Quigley
Managing Director,
Examinations and Supervision - Operations