

OFFICE OF THRIFT SUPERVISION

Approval of Application for Permission to Organize a Federal Savings Bank

Order No.: 2004-40
Date: August 6, 2004
Re: OTS No. 17974

David Bijan Movtady, Paul C. Settelmeyer, Edna Mashaal, William Schult and Conrad D. Singer (collectively, the Applicants) have applied for approval of the Office of Thrift Supervision (OTS) pursuant to 12 U.S.C. § 1464(e) and 12 C.F.R. § 552.2-1 for permission to organize Golden First ~~Bank~~ (Savings Bank), Great Neck, New York (Application). The Applicants have filed an application with the Federal Deposit Insurance Corporation (FDIC) for insurance of the Savings Bank's deposits under the Savings Association Insurance Fund.

OTS has considered the Application under the standards set forth in 12 U.S.C. § 1464(e) and 12 C.F.R. 55543.3 and 552.2-1, and other applicable statutes and regulations. OTS also has considered the Application under the Community Reinvestment Act (CRA), 12 U.S.C. §§ 2901 *et seq.*, and OTS's regulations thereunder, 12 C.F.R. Part 563e. In addition, OTS has considered the submissions made by the Applicants.

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 provide credit for housing consistent with the safe and sound operation of a federal savings association. OTS, when considering the application, also takes into account an applicant's description of how it will meet CRA objectives. Furthermore, OTS considers the composition of the savings association's board of directors, the amount of initial capital provided by the organizers and the business plan for the savings association, including projected financial information.

With respect to character and responsibility, two of the organizers, one of whom will become the President and Chief Operating Officer, have experience operating banking institutions. The Application indicates that the remaining members of the proposed board of directors possess extensive experience with financial institutions and other business endeavors. In addition, routine background checks were made and they did not result in the disclosure of information that would be inconsistent with approval of the Application. In sum, a review of this information warrants the conclusion that the

character and responsibility of the Applicants are consistent with approval of the Application.

With respect to whether a necessity exists for such association in the community to be served, the Savings Bank will engage in deposit and lending activities. The Savings Bank will initially focus its deposit and lending activities in the area encompassing the Town of North Hempstead, Nassau County, New York. Deposits insured by the FDIC in the North Hempstead market have grown from **\$9.878** billion in June **1999**, to **\$12.067** billion in June **2003**. Similarly, the population of the Town of North Hempstead has grown from **85,792** in **2000** to **86,326** in **2003** and is projected to grow to **87,212** by **2008**. We conclude that the increases in deposits and population are sufficient to demonstrate that there is a necessity in the community for the Savings Bank.

With respect to undue injury to local ~~thrift~~ and home financing institutions, while the Savings Bank may take some business from existing institutions, those institutions are generally larger and operate over a broader territory than will the Savings Bank. Moreover, the Savings Bank's projected level of deposits is insignificant in comparison to the **\$12.067** billion of deposits held by banks and savings associations in the relevant market. 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 ~~thrift~~ and home financing institutions in the geographic area where its customers will be located.

With respect to the reasonable probability for the association's usefulness and success, the Savings Bank will be well capitalized. In addition, the Savings Bank's business plan is reasonable, and the proposed management appears to be competent. In addition, approval of the Application will be subject to conditions requiring that the Savings Bank submit any proposed major changes or deviations from the business plan to OTS for prior written non-objection, provide OTS with reports of variances between the business plan and actual operations, submit audit reports to the Regional Office during its first three years of operation, and submit contracts or agreements pertaining to transactions with affiliates during the first eighteen months of operation. In addition, approval will be subject to a condition requiring that the businesses of the Savings Bank and its affiliated mortgage company not be combined without OTS's prior approval. OTS review of variance reports and proposed material changes to the business plan helps ensure that changes to or from the business plan included in the Application would not be detrimental to the Savings Bank. OTS review of proposed transactions with affiliates ensures that such transactions are consistent with statutory requirements and are not detrimental to the Savings Bank. The requirement for OTS approval for combining the businesses of the Savings Bank and its affiliated mortgage company ensures that any such combination will be undertaken only when it would be safe and sound. The requirement that the Savings Bank provide audit reports enables OTS to review the controls and procedures employed by the Savings Bank during its first years of operation. Such oversight is appropriate so OTS may confirm that proper procedures are being followed. Approval will also be conditioned on the Savings Bank establishing policies and procedures for compliance with various statutes and obtaining OTS's nonobjection to those policies and procedures. These conditions are appropriate to ensure that the

Savings Bank complies with relevant statutes. Furthermore, the Savings Bank will be required to obtain approval from the Regional Director for any change in the responsibilities of any senior executive officer and for the addition of any new executive officer or director during its first two years of operations. These conditions are appropriate to enable OTS to confirm that the Savings Bank will be operated properly and by qualified personnel. Accordingly, these conditions **are** appropriate for maintaining the safe and sound operation of the Savings Bank. With these conditions, we conclude that there is a reasonable probability of the Savings Bank's usefulness and success.

With respect to the provision of credit for housing in a safe and sound manner, the Savings Bank will extend credit for housing within its market area. The Savings Bank expects that the majority of its loan portfolio will be made up of **loans** for one to four family housing. We have reviewed the Application and have concluded that the Savings Bank proposes to conduct these activities safely and soundly. Accordingly, we conclude that the Savings Bank will provide credit for housing in a safe and sound manner.

The Savings Bank has no prior CRA performance. OTS received no public comments objecting to the Application. The Savings Bank's CRA assessment area consists of the Town of North Hempstead, Nassau County, New York. OTS has reviewed the Savings Bank's CRA plan, including among other things, the proposed levels of lending and concludes that the CRA plan is consistent with the regulations. We find that the Savings Bank has made a satisfactory showing that it will satisfy the requirements for the CRA.

The Savings Bank intends to adopt a charter and bylaws that conform to the model charter and bylaws for a federal stock savings association. The Savings Bank will have an initial capitalization that exceeds the **minimum** regulatory requirement. In addition, as the Savings Bank's board of directors will be made up of persons with varied backgrounds, no more than a third of whom are in closely related businesses, and a majority of its members live and/or work in New York, the composition of the board meets the regulatory requirements set forth in 12 C.F.R. § 543.3(d).

Based on the foregoing, the Application 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 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 Order;
3. On the business day prior to the consummation of the proposed transaction, the chief financial officer of 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 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 Applicants, 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;


4. The Savings Bank must, within **5** calendar days after the effective date of the proposed transaction, provide a reconciliation of the Savings Bank's capital to the Regional Director and must advise the Regional Director in writing: (a) of the effective date of the transaction; and (b) that the transaction was consummated in accordance with all applicable laws and regulations, the Application, and this Order;
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;
8. For two years following commencement of operations, the Savings Bank must receive the prior written non-objection of the Regional Director for any proposed new directors or senior executive officers or any significant change in responsibilities of any senior executive officer;
9. At least 30 days prior to the commencement of operations, the Savings Bank must develop and submit to the Regional Director for his review and written non-objection, policies, procedures and internal controls for compliance with the Bank Secrecy Act and OTS policies and related statutes respecting privacy of consumer financial information and fair lending;
10. During the first eighteen months of operations, any contracts or agreements pertaining to transactions with affiliates not yet submitted to OTS for review.

must be provided to the Regional Director for his written non-objection at least 30 calendar days prior to their execution and implementation; and

- 1 1. For the first three years of operations, the Savings Bank must operate completely separate from its affiliate, Golden First Mortgage Company. If management seeks to integrate operations at a later date, the Savings Bank must seek and obtain prior written approval of the Regional Director.

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 August 6, 2004.



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