

OFFICE OF THRIFT SUPERVISION

Approval of Organization and Acquisition of  
a Federal De Novo Stock Savings Bank

Order No. 98-55

Date: May 21, 1998

Southeastern Commerce Holding Company, Atlanta, Georgia (the "Holding Company"), has applied to the Office of Thrift Supervision ("OTS") for permission to organize and acquire a Federal de novo stock savings bank to be known as Commerce Bank, Atlanta, Georgia ("Institution"), pursuant to Sections 5(e) and 10(e) of the Home Owners' Loan Act ("HOLA"), 12 U.S.C. §§ 1464(e) and 1467a(e) and 12 C.F.R. §§ 552.2-1 and 574.3 thereunder.

The OTS has considered the applications under the standards set forth at 12 U.S.C. §§ 1464(e) and 1467a(e), and at 12 C.F.R. §§ 543.3, 552.2-1 and 574.3. In addition, the OTS has considered the digests prepared by the Southeast Regional Office and Corporate Activities, and a legal opinion from the Business Transactions Division (collectively, the "Staff Memoranda".) Also, the OTS has considered the proposed transaction under the Community Reinvestment Act, 12 U.S.C. §§ 2901 et seq., and OTS regulations thereunder at 12 C.F.R. Part 563e, to the extent applicable.

For the reasons set forth in the Staff Memoranda, the OTS has concluded that the organization and acquisition of the Institution would be in compliance with all applicable statutes and regulations. Accordingly, the applications are hereby approved, provided that the following conditions are complied with in a manner satisfactory to the Southeast Regional Director, or his designee ("Regional Director"):

1. The Holding Company and the Institution must receive all required regulatory approvals prior to establishment of the Institution with copies of all such approvals supplied to the Southeast Regional Office;
2. On the business day prior to opening for business, the Institution must advise the OTS that there have been no substantial changes with respect to the information currently before the OTS, including but not limited to directors, proposed shareholders or the business plan; and that no additional information having a material adverse bearing on any feature of the application exists;

3. Prior to opening for business, the Holding Company must file with the Southeast Regional Director a certification by legal counsel stating the effective date of the completion of the organization of the Institution, and that the completion of the organization has been consummated in accordance with the provisions of all applicable laws and regulations (including state and federal securities law requirements), the Applications, and this Order;
4. The Institution shall submit independent audit reports to the Southeast Regional Office for its first three fiscal years. These reports shall be in compliance with the audit rules set forth in 12 C.F.R. Section 562.4;
5. Prior to opening, the Institution shall submit to the Regional Director for approval, the name and qualifications of individuals to serve as Chief Financial Officer and Chief Lending Officer;
6. Any stock benefit plans, warrants or employment contracts established, issued or entered into during the first three years of the Institution's operation must receive the prior written approval of the Regional Director;
7. The Institution shall operate within the parameters of the submitted business plan. Any proposed major deviations or material changes from the submitted plan, including those pertaining to Internet operations and level of capital, must receive the prior written approval of the Regional Director. The request for approval shall be submitted at least thirty days before the proposed change is anticipated;
8. During the first three years of operation, the Holding Company shall provide the Southeast Regional Office with thirty days notice prior to commencing any new activities at the holding company and may not commence such activities until the Southeast Regional Office issues its written non-objection;
9. Any tax sharing agreement between the Holding Company and the Institution must receive the prior written approval of the Regional Director;
10. Any contracts or agreements pertaining to transactions with affiliates, not yet submitted to the OTS for review, shall be provided to the Regional Director at least 30 days prior to execution and shall receive his written non-objection prior to implementation; and

11. The thrift's Year 2000 Project Management Program must adhere to the terms, deadlines, requirements and conditions contained in the Year 2000 guidance issued by the OTS and/or the Federal Financial Institutions Examination Council ("FFIEC") including the May 5, 1997 FFIEC Year 2000 Project Management Awareness Statement, the December 17, 1997 FFIEC Safety and Soundness Guidelines Concerning the Year 2000 Business Risk, the March 17, 1998 FFIEC Guidance Concerning Institution Due Diligence in Connection with Service Provider and Software Vendor Year 2000 Readiness, the March 17, 1998 FFIEC Guidance Concerning the Year 2000 Impact on Customers, the April 10, 1998 Guidance Concerning Testing for Year 2000 Readiness, the May 13, 1998 Guidance Concerning Contingency Planning in Connection with Year 2000 Readiness, the May 13, 1998 Guidance on Year 2000 Customer Awareness Programs and any subsequent OTS or FFIEC Year 2000 guidance, regulations or other requirements.

In addition, the Holding Company has requested an exemption from the Depository Institution Management Interlocks Act ("Interlocks Act") and OTS regulations thereunder, for the interlocking service of Messrs. Bremer, Howell, Parlontieri, and Russell at the Holding Company and the Institution and First Community Bank Services and Fayette County Bank.

Section 209 of the Interlocks Act, as amended by the Economic Growth and Regulatory Paperwork Reduction Act of 1996, grants OTS broad authority to promulgate regulatory exceptions from the Interlocks Act, subject to the requirement that the interlocking service permitted under such regulations must not result in a monopoly or substantial lessening of competition. Section 563f.6(a)(3) of the Interlocks Regulations provides that with agency approval, a person may serve at the same time as a management official of two or more depository organizations if it is determined that the interlock strengthens management of a depository institution that has been chartered for less than three years.

The OTS has considered the exemption request and has concluded that the proposed interlocks are within the scope of 12 C.F.R. § 563f.6(a)(3), and that the proposed interlocks will not result in a monopoly or substantial lessening of competition. Accordingly, the OTS hereby approves the exemption request for a period of one year.

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Any time period specified herein may be extended by the Southeast Regional Director, for good cause, for up to 120 calendar days.

By order of the Director of the Office of Thrift Supervision,  
or her designee, effective May 21, 1998.

  
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John E. Ryan  
Acting Executive Director, Supervision