



Office of Thrift Supervision
Department of the Treasury

1700 G Street, N.W., Washington, DC 20552 • (202) 906-6000

August 12, 2010

Robert B. Pomerenk, Esq.
Eric Luse, Esq.
Luse Gorman Pomerenk & Schick, P.C.
5335 Wisconsin Avenue, N.W., Suite 780
Washington, D.C. 20015

Re: Application to Issue Minority Stock Filed by Charter Financial Corporation (Holding Company), West Point, Georgia, OTS No. H-3739, and Capital Distribution Application

Dear Messrs. Pomerenk and Luse:

The Holding Company, the federally chartered subsidiary mutual holding company parent of CharterBank, West Point, Georgia (Savings Bank), OTS No. 05798, has applied to the Office of Thrift Supervision (OTS), pursuant to section 10(o) of the Home Owners' Loan Act (HOLA) and 12 C.F.R. Part 575 to issue shares of its common stock (Offering). In addition, the Savings Bank requests OTS approval, pursuant to 12 C.F.R. § 563.143(a)(2), to make a capital distribution to the Holding Company of up to 50 percent of the net proceeds of the Offering. (Collectively, the foregoing are referred to herein as the Applications.)

The Transaction

First Charter, MHC, West Point, Georgia (Mutual Holding Company) is a federally chartered mutual holding company, and currently holds 84.9 percent of the common stock of the Holding Company. In the proposed transaction, which is described in more detail in the Applications, the Holding Company will offer shares of its common stock to parties other than the Mutual Holding Company in the Offering, as described in more detail in the Holding Company's Plan of Stock Issuance (Plan). Upon completion of the Offering, the Mutual Holding Company will hold between 62 and 53 percent of the Holding Company's common stock, and other parties will hold the remaining shares. Fifty percent of the net cash proceeds raised in the Offering will be infused as capital into the Savings Bank.

Minority Stock Issuance

Section 575.7(a) provides that no savings association subsidiary of a mutual holding company may issue stock to persons other than its mutual holding company

parent unless the association obtains advance approval of each such issuance from OTS and the issuance complies with the criteria for approval set forth in section 575.7. Stock issuances by the Holding Company are subject to the provisions of the MHC Regulations pertaining to minority stock issuances as if the Holding Company were a former mutual savings association that reorganized into a mutual holding company structure.¹

We have reviewed the Plan, and have concluded that the Plan meets the requirements of section 575.7, including the requirements cross-referenced in sections 575.8 and 563b.300(a). In particular, the Savings Bank has submitted an acceptable appraisal based upon an independent evaluation.

The Conversion Regulations, at 12 C.F.R. § 563b.390(b), require that in the Savings Bank's community offering, the Savings Bank give a purchase preference to natural persons residing in the Savings Bank's local community. For any community offering, the Plan provides: (i) a purchase priority for natural persons (and trusts of natural persons) residing in the Savings Bank's community, which is defined as the states of Alabama and Georgia, the states where the Savings Bank maintains offices; and (ii) a purchase priority to the Holding Company's public stockholders as of the stockholder record date. Because the first preference is for persons residing in the Savings Bank's local community, the preference satisfies the requirement contained in 563b.390(b). The regulation does not prohibit the community offering from containing a second priority. We conclude that the community offering section satisfies the Conversion Regulations.

The proposed issuance is consistent with the charter of the Savings Bank and the proposed charter of the Holding Company, provides the Savings Bank with adequate capital, and is not inequitable to the Savings Bank, the MHC, or the MHC's members. OTS has determined that the price range for the stock is reasonable. The MHC will hold more than 50 percent of the Holding Company's stock after the transaction, and the Savings Bank has furnished the requisite information.

Section 575.7(d)(6)(i) provides that all minority stock issuances must comply with 12 C.F.R. Part 563g and, to the extent applicable, Form OC. Because the Offering involves shares of the Holding Company and not of the Savings Bank, Part 563g is inapplicable to the Offering and the Offering has been registered with the Securities and Exchange Commission under the Securities Act of 1933. Section 575.7(d)(6)(ii) requires that minority stock issuances be structured in a manner similar to a standard conversion under 12 C.F.R. Part 563b. The Plan meets the requirements of 12 C.F.R. Part 563b. In particular, the purchase priorities are consistent with the priorities for mutual-to-stock conversions, and the provisions of the Plan relating to stock benefit plans are consistent with Part 563b.

OTS is imposing condition 9 because OTS carefully applies the criteria set forth

¹ 12 C.F.R. § 575.14(b)(2010).

in 12 C.F.R. § 563b.525 in reviewing an offer or acquisition under 12 C.F.R. § 563b.525 in the first three years following a minority stock issuance. Accordingly, it is appropriate for the reorganized entity (and its holding company) to seek OTS clearance before speaking with potential acquirors, given the possibility that the acquisition may not ultimately be approved. This condition helps ensure compliance with 12 C.F.R. § 563b.525, and helps ensure the Savings Bank's safety and soundness by reducing the possibility that the Savings Bank (or the Holding Company) will expend time and resources pursuing a transaction that they ultimately may not be able to complete.

In light of the Savings Bank's CRA rating, consideration of its compliance activities, and its intention to use part of the offering proceeds to fund new loans, we conclude that the proposed stock issuance meets the convenience and needs standard set forth at 12 C.F.R. § 563b.200(c). Finally, we are aware of no information indicating that the proposed transaction is inconsistent with any other law or regulation.

Capital Distribution

The Savings Bank has requested OTS approval, pursuant to 12 C.F.R. § 563.143(a)(2), to make a capital distribution of 50 percent of the net cash proceeds of the Offering to the Holding Company. OTS's regulations provide that a capital distribution application may be denied if, generally, the proposed capital distribution would: (i) cause the institution to become undercapitalized; (ii) raise safety and soundness concerns; or (iii) violate any statute, regulation, agreement with OTS or condition of approval.²

The proposed distribution does not raise safety and soundness concerns and it will not violate any prohibition contained in law, agreement with OTS, or condition of approval, and the Savings Bank will remain well capitalized after the distribution. Accordingly, we conclude that the Savings Bank's capital distribution is consistent with approval.

Conclusions

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

1. The proposed transaction must be consummated no later than 120 calendar days after the date of this approval letter;

² 12 C.F.R. § 563.146 (2010).

2. The applicants must receive all required regulatory approvals for the proposed transaction and submit copies of all such approvals to the Regional Director prior to consummation of the proposed transaction;
3. The applicants must submit a certification from their independent legal counsel to the Regional Director within five calendar days after the effective date of the transaction stating: (a) the effective date of the transaction; and (b) that the transaction was consummated in accordance with all applicable laws and regulations, the Applications, and this approval letter;
4. The Holding Company must not take any action that would prevent its stock from being listed on a national or regional securities exchange;
5. The Holding Company's capital stock to be sold in the Offering must be sold in compliance with the restrictions contained in 12 C.F.R. § 563.76;
6. Promptly after the completion of the sale of all the shares of capital stock to be sold in connection with the Offering, the Holding Company must submit to the Regional Director or his designee a certification by the Holding Company's chief executive officer stating the exact number of shares acquired in the Offering by persons other than the MHC, and the gross and net proceeds of the Offering and the date of completion of the Offering;
7. Prior to closing of the Offering, the Holding Company must submit a statement by its independent appraiser that, to the best of the appraiser's knowledge and judgment, nothing of a material nature has occurred (taking into account all relevant factors) that would cause the appraiser to conclude that the value of the stock sold in the Offering was not compatible with the estimate of the Holding Company's and the Savings Bank's *pro forma* market value at the time of sale; and
8. For three years following the completion of the Offering, neither the Holding Company nor the Savings Bank may, without the prior written consent of the Managing Director, Corporate & International Activities, or her designee, take any action with a view toward a transaction which would require stockholder approval under 12 C.F.R. § 552.13(h).

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

Robert B. Pomerenk, Esq.
Eric Luse, Esq.
Luse Gorman Pomerenk & Schick, P.C.
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The stock offering materials included in the Applications will be discussed in a separate letter.

Sincerely,

_____/s/_____
Donald W. Dwyer
Director, Applications
Corporate & International Activities

_____/s/_____
Kevin A. Corcoran
Deputy Chief Counsel for
Business Transactions

cc: Regional Director
Regional Counsel
Valarina Oliver-Dumont
Southeast Regional Office

Virgie Grant-Brooks, CIA-A
David Permut, BTB