

OFFICE OF THRIFT SUPERVISION

APPROVAL OF APPLICATIONS FOR CONVERSION TO A FEDERAL SAVINGS BANK CHARTER, TRANSFER OF ASSETS, TRUST POWERS, AND HOLDING COMPANY ACQUISITION

Order No.: 2000-22

Date: February 25, 2000

Franklin Bank, San Mateo, California (the Bank), has applied to the Office of Thrift Supervision (OTS), pursuant to 12 U.S.C. § 1464 and 12 C.F.R. § 552.2-6, for permission to convert from a California-chartered bank to a federal stock savings bank, Franklin Templeton Bank and Trust, F.S.B. (the Savings Bank). The Savings Bank has applied, pursuant to 12 U.S.C. § 1464(n) and 12 C.F.R. Part 550, to exercise trust powers as described in the application. The Savings Bank has applied to relocate the home office to Salt Lake City, Utah and to retain the San Mateo, California office as a branch pursuant to 12 C.F.R. §§ 545.95 and 545.92. In addition, Franklin Resources, Inc., San Mateo, California (the Applicant) has applied for OTS approval pursuant to 12 U.S.C. § 1467a(e) and 12 C.F.R. §§ 563.22(c) and 574.3 to acquire the Savings Bank and to transfer the assets and liabilities of Franklin Templeton Trust Company, San Mateo, California (the Trust Company), to the Savings Bank. (The foregoing are collectively referred to as the Applications.) The Bank is, and the Savings Bank will remain, a member of the Bank Insurance Fund.

The OTS has considered the Applications under the standards set forth in 12 U.S.C. §§ 1464(e), 1464(n) and 1467a(e), and 12 C.F.R. §§ 545.92, 552.2-1(b), 552.2-6, 563.22(d), and 574.7 and Part 550, and under the Community Reinvestment Act, 12 U.S.C. §§ 2901 *et seq.*, and the OTS regulations thereunder, 12 C.F.R. Part 563e. In addition, the OTS has considered the digest prepared by the OTS West Regional Office, an analysis by the Office of Examination and Supervision, memoranda from the Compliance Policy and Specialty Examinations Division, and a legal opinion by the Business Transactions Division (collectively, the Staff Memoranda). For the reasons set forth in the Staff Memoranda, the OTS finds that the Applications satisfy the applicable approval standards, provided that the conditions set forth below are complied with in a manner satisfactory to the West Regional Director, or his designee (Regional Director). Accordingly, the Applications are hereby approved, subject to the following conditions:

1. The Applicant, the Bank, the Trust Company, and the Savings Bank must receive all required regulatory and shareholder approvals for the proposed transaction 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 one hundred and twenty (120) calendar days from the date of this Order;
3. On the business day prior to the date of consummation of the proposed transaction, the chief

financial officers of the Applicant, the Bank, the Trust Company, and the Savings Bank must certify in writing to the Regional Director that no material adverse events or material adverse changes have occurred with respect to the financial condition or operation of the Applicant, the Bank, the Trust Company, and the Savings Bank as disclosed in the Applications. If additional information having an adverse bearing on any feature of the Applications is brought to the attention of the Applicant, the Bank, the Trust Company, the Savings Bank, or the OTS since the date of the financial statements submitted with the Applications, 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. Prior to consummation of the proposed transaction, the Bank must pass an on-site pre-conversion examination by the OTS. During that examination, the Bank must demonstrate that it has implemented effective policies, procedures, and controls to address the issues identified by the OTS in its eligibility examinations of the Bank and the Trust Company;
5. The Applicant, the Bank, 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 proposed transaction; and (b) that the transaction was consummated in accordance with all applicable laws and regulations, the Applications, and this Order;
6. The Savings Bank must submit annual independent audit reports to the Regional Director for its first three fiscal years. These reports must be in compliance with the audit rules set forth at 12 C.F.R. § 562.4;
7. The Savings Bank must operate within the parameters of its business plan. The Applicant and the Savings Bank must submit any proposed major deviations or material changes from the plan (including changes resulting from decisions made by the Applicant), and in particular, those pertaining to cross-marketing of products of the Savings Bank and its affiliates, for the prior, written non-objection of the Regional Director. The request for change must be submitted a minimum of 30 calendar days before the proposed change is implemented;
8. Prior to initiating electronic and Internet banking, home equity lending, and educational lending operations, the Savings Bank must develop and implement, for each loan product that will be offered, clear nondiscriminatory underwriting policies, procedures, and forms. In addition, prior to initiating these operations, the Savings Bank must submit to the Regional Director the policies and procedures that it will follow in connection with dealings with the contemplated network loan brokers;
9. The Savings Bank must comply with the asset investment limitations of Section 5(c)(2)(D) of the Home Owners' Loan Act at the earliest possible date without material loss to the Savings Bank, but no later than one year from the date of the conversion;
10. At least 40 percent of the Savings Bank's board of directors must be individuals who are not officers or employees of the Applicant or affiliates thereof or 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 Applicant or any affiliate and who is not an officer or employee of the Savings Bank or has not otherwise been determined by the Regional Director to lack sufficient independence. At least 50 percent of any audit, investment, and trust committee established by the Savings Bank must be directors who are not officers or employees of the Savings Bank, the Applicant or any affiliates or have not otherwise been determined by the Regional Director to lack sufficient independence. If compliance with this condition involves the selection of additional directors, each director must receive the prior written approval of the Regional Director;

11. Prior to engaging in any fiduciary activity, the Savings Bank must develop and submit to the Regional Director for review a functioning oversight program, consisting of a comprehensive audit program, a compliance management program, and a risk management program. The audit program must be fully implemented prior to the commencement of operations. The compliance management program must be fully implemented within 90 days of commencement of operations. The risk management program must be fully implemented within 180 days of commencement of operations.
 - The audit program should address auditor qualifications, audit scope and method, committee involvement, reporting, and the process for effectuating corrective action.
 - The compliance management program should ensure compliance with applicable laws, regulations, and sound fiduciary principles. It should include, at a minimum: (a) the assignment of specific compliance responsibilities to experienced staff; (b) training for affected staff; (c) routine self-evaluations; (d) periodic compliance audits; and (e) appropriate written policies and procedures.
 - The risk management program should establish criteria to identify, measure, monitor, and control risks within the fiduciary activities;
12. Within 30 days after the end of each calendar quarter, the Savings Bank must submit to the Regional Director quarterly activity reports on the number and type of trust accounts serviced, the total asset values of these accounts, and the minutes of the meetings of the Savings Bank's Trust Committee;
13. Within 30 days after the end of each calendar quarter, the Savings Bank must submit a status report, in a form acceptable to the Regional Director, that details the implementation of its revised compliance management and fair lending programs and the results of its compliance monitoring efforts as required by the compliance management program. On the same schedule, the Savings Bank must report on the monitoring of its CRA Plan, detailing the results of its various lending programs and initiatives, along with its levels of lending to low- and moderate-income individuals and communities. These quarterly reports are required until such time as the Regional Director deems them no longer necessary;

14. The Applicant, its affiliates and the Savings Bank must comply with the anti-tying restrictions of 12 U.S.C. §§ 1464(q) and 1467a(n) and must develop written procedures to effect such compliance. The procedures must disclose any proposed bundling arrangements and must be submitted for the review and non-objection of the Regional Director prior to the opening of the Savings Bank for business;
15. For the first eighteen months of operation, any contracts or agreements pertaining to transactions with affiliates, not yet submitted to the OTS for review, must be provided to the Regional Director, together with documentation supporting the Savings Bank's assessment that use of the affiliate is in the best interests of the trust customers, at least 30 days prior to execution and must receive his written non-objection prior to implementation;
16. The Savings Bank must comply with all applicable state and federal securities laws, relating to any requirements for registration as an investment advisor and submit evidence of such compliance acceptable to the Regional Director;
17. Any affiliate of the Savings Bank that engages in broker, dealer, investment company, or investment advisor activities (Securities Affiliate(s)) must be operated as a separate legal entity from the Savings Bank so that: (a) their respective accounts and records are not intermingled; (b) each observes the procedural formalities of separate legal titles; (c) each is held out to the public as a separate enterprise; and (d) none dominates another to the extent that one is treated as a mere department of the other;
18. A majority of the Savings Bank's board of directors must not be individuals who are officers, directors or employees of any Securities Affiliate;
19. The Savings Bank and any Securities Affiliate are prohibited from sharing common officers, unless prior approval is obtained from the Regional Director, which shall be based on criteria such as regulatory compliance, experience, character, integrity and the ability to perform both duties;
20. The Savings Bank, the Applicant, and the Securities Affiliates must take measures necessary to ensure that their officers and directors adhere to the principles set forth in OTS regulations on conflicts of interest, 12 C.F.R. § 563.200; corporate opportunity, 12 C.F.R. § 563.201; trust fiduciary duties, 12 C.F.R. § 550.140; and any other additional or successor statements of policy or regulations addressing these subjects. The officers and directors of the Savings Bank and the Securities Affiliates are prohibited from using their influence to: (a) take advantage of a business opportunity for the Securities Affiliates' benefit when the opportunity is of present or potential advantage to the Savings Bank; or (b) place the Securities Affiliates in a position that leads to, or could create the appearance of, a potential conflict of interest;
21. The Savings Bank, the Applicant and the Securities Affiliate are subject to the provisions of 12 C.F.R. § 563.76, *Offers and Sales of Securities at an Office of Savings Association*, and

related policy established in OTS Thrift Bulletins 23-2, *InterAgency Statement on Retail Sales of Nondeposit Investment Products*, and 23a, *Limited Exceptions to Prohibitions on Sales of Savings Institution's Securities*, and any additional or successor statements of policy or regulations addressing these subjects. The Savings Bank must submit, prior to opening for business, procedures acceptable to the Regional Director, setting forth how the Savings Bank will avoid confusion regarding the status of deposit insurance with respect to trust accounts;

22. The Savings Bank must separately submit an application to OTS pursuant to Part 550 of the OTS Regulations to engage in any additional trust activities not fully described in the business plan and factored into the financial projections; and
23. At least 30 days prior to conversion, the Bank must submit written evidence, acceptable to the Regional Director, that its data systems, programs, software and business applications will operate properly.

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

By order of the Director of the Office of Thrift Supervision, or her designee, effective

FEBRUARY 25, 2001.


Richard M. Riccobono
Deputy Director