

OFFICE OF THRIFT SUPERVISION

APPROVAL OF APPLICATION FOR PERMISSION TO ORGANIZE A FEDERAL SAVINGS BANK AND HOLDING COMPANY ACQUISITION

Order No.: 2000-40

Date: April 25, 2000

Bofl.com Holding, Inc., San Diego, California (the Applicant), 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 Bank of Internet USA, San Diego, California (the Savings Bank). (The foregoing are collectively referred to as the Applications.)

The OTS has considered the Applications under the standards set forth in 12 U.S.C. §§ 1464(e) and 1467a(e), and 12 C.F.R. §§ 543.3, 552.2-1, and 574.7, and other applicable statutes and regulations. The OTS also has considered the Applications 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 a digest by the OTS West Regional Office, an analysis prepared by the Office of Examination and Supervision, and a legal opinion from the Business Transactions Division (collectively, the Staff Memoranda). For the reasons set forth in the Staff Memoranda, the OTS has determined that the Applications satisfy all applicable statutory and regulatory criteria, 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 and the Savings Bank must receive all required regulatory approvals prior to consummation of the proposed transaction with copies of all such approvals provided to the Regional Director;
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 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 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 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;

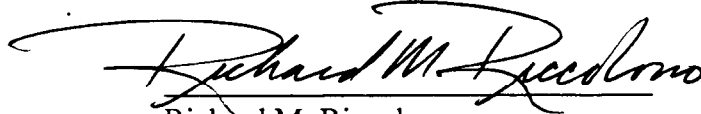
4. The Applicant and the Savings Bank must advise the Regional Director in writing within 5 calendar days after the effective date of the proposed transaction: (a) of the effective date of the proposed transaction; and (b) that the transaction was consummated in accordance with all applicable laws and regulations, the Applications, and this Order;
5. The Savings Bank must submit 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;
6. 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 those pertaining to the level of capital and Internet operations, for the prior written approval 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 to the FDIC Regional Office. The Savings Bank must also submit quarterly variance reports depicting the Savings Bank's operations versus the submitted business plan to the Regional Director within 45 calendar days of the end of each quarter for the first three years of operation;
7. The Savings Bank must submit to the OTS the quarterly Schedule CMR (Consolidated Maturity and Rates) during the first three years of operation;
8. The Savings Bank must establish detailed policies and procedures for all operations. Prior to opening, the Savings Bank must provide to the Regional Director copies of the policies and procedures that it has adopted for its deposit and lending operations and a resolution of its board of directors that indicates that the board has reviewed, approved, and implemented such policies and procedures;
9. The Savings Bank's Community Reinvestment Act Plan shall be subject to any future changes in requirements contained in regulatory policies or regulations that the OTS on its own, or acting in concert with other financial institution regulatory agencies, determines are appropriate for depository institutions operating primarily through non-traditional channels;
10. Prior to engaging in any activities other than owning the Savings Bank in its first three years of operation, the Applicant must submit for review and approval of the Regional Director, a three year business plan for the Applicant;

11. For a period of three years following the date of consummation, 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;
12. During the first year of operation, all stock option and incentive plans and agreements that have not been submitted previously to the OTS must be provided to the Regional Director for his written non-objection and must receive the prior approval of the Applicant and its shareholders;
13. Prior to their execution, all employment contracts to be implemented within the Savings Bank's first year of operation must be submitted to the Regional Director for his written non-objection;
14. Within 30 calendar days after opening for business, the Applicant and the Savings Bank must submit a tax sharing agreement between the Applicant and the Savings Bank to the Regional Director for his prior written non-objection;
15. Prior to opening for business, the Savings Bank must provide evidence to the Regional Director that an independent security review and test of its Internet banking platform has been performed. This review must be conducted by an independent computer security specialist (Reviewer) and must include testing to determine the adequacy of protection against unauthorized external access, including individual penetration attempts, computer viruses, denial of service, and other forms of electronic access. In addition, the review must assess the adequacy of internal security. The Reviewer must confirm, in writing, that security measures, including the firewall, have been satisfactorily implemented and tested. The report must critique the effectiveness of security policies and controls and confirm, with reasonable certainty, that unauthorized internal or external data and network access or access attempts are detected and recorded. The Savings Bank must agree that it will attempt to correct all deficiencies noted in the report within a reasonable amount of time. In addition, the Savings Bank must perform such a review prior to the initial implementation of any subsequent Internet service delivery providers and provide the report to the Regional Director. These reviews are subject to any additional standards or requirements set by the Regional Director, including prior OTS review of the qualifications of the independent computer security specialists;
16. Before the Savings Bank's customers may transfer directly from the Savings Bank's web site to another web site selling financial products, the Savings Bank must submit copies of all proposed web site disclosures and any policies regarding such disclosures for the review and non-objection of the Regional Director. This information must be submitted at least 30 calendar days prior to the desired implementation date;

17. The Savings Bank must develop a business contingency plan and integrate it into the business and strategic plans and funds management policy. The Savings Bank must submit the business contingency plan to the Regional Director for review and non-objection within 30 calendar days after opening for business. The objective of the business contingency plan is to help ensure that the Savings Bank can prudently, efficiently, and effectively manage potential scenarios where the loan or deposit mixes, interest rates, operating expenses, marketing costs, and/or growth rates differ significantly from the operating plan. The plan must address access to additional capital in the future if situations dictate and strategies for managing potential liquidity fluctuations. The Savings Bank must update the business contingency plan periodically, including as the Savings Bank becomes more complex and as industry conditions change, as other circumstances warrant, or as otherwise directed by the Regional Director;
18. At least 30 calendar days prior to opening for business, the Savings Bank must submit to the Regional Director, for his review and approval, a detailed compliance management program that includes, at a minimum, the following components:
 - a. The assignment of specific compliance responsibilities to individuals who are knowledgeable and experienced in administering consumer protection, nondiscrimination, and other compliance laws administered by the OTS;
 - b. Regular and comprehensive self-assessment reviews to ensure compliance on a day-to-day basis;
 - c. Periodic compliance audits;
 - d. Comprehensive training for all affected staff; and
 - e. Appropriate written policies and procedures for each area of operation;
19. No later than 10 calendar days after the end of each quarter, the Savings Bank must submit a status report, in a form acceptable to the Regional Director, that details the implementation of the compliance management program, and the results of its compliance monitoring efforts as required by the compliance management program. This quarterly report is required until such time as the Regional Director deems it no longer necessary; and
20. No later than 10 calendar days after the end of each quarter, the Savings Bank must submit a report on the monitoring of its CRA Plan, in a form acceptable to the Regional Director, detailing the results of its various lending programs and initiatives, and its level of lending to low- and moderate-income individuals and communities. This quarterly report is required until such time as the Regional Director deems it no longer necessary.

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
April 25, 2000

A handwritten signature in black ink, reading "Richard M. Riccobono". The signature is written in a cursive style with a large, sweeping initial "R".

Richard M. Riccobono
Deputy Director